

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

AARON E BEECHAM
Claimant

APPEAL NO. 09A-UI-07859-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**USA STAFFING INC
LABOR WORLD IA**
Employer

**Original Claim: 04/19/09
Claimant: Appellant (2)**

Iowa Code § 96.5(1)j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 20 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on June 16, 2009. The claimant participated. The employer did not respond to the notice of hearing and did not participate.

ISSUE:

The issue is whether the claimant voluntarily quit his work from a temporary employment firm.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was hired by the employer to complete work on cleaning records after the flood in Cedar Rapids, Iowa. His assignment was over on April 17, 2009. Tim Polk, a representative of the employer, talked to the claimant and other staff on April 16, 2009 and told them the assignment was ending and that he did not currently have any assignments. Mr. Polk stated he and he would call the workers if he had any openings and that the employees should not call.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntary quit his employment.

Iowa Code § 96.5-1-j provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department, but the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The purpose of the Iowa Code § 96.5-1-j is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. Before applying the statute, an examination of the facts is required to determine if the employer and the claimant meet the definitions under the statute. The employer to be covered must be a "temporary employment firm." See Iowa Code § 96.5-1-j(2). A temporary employment firm is defined as a person engaged in the business of hiring temporary employees. "Temporary employees" are defined as: "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects." See Iowa Code § 96.5-1-j(1).

The claimant is a temporary employee and is required to notify the temporary agency with three working days of the end of the assignment and of the availability to accept reassignment. In this case, the claimant gave the employer notice of his availability and did seek work from employer on his last day of work. He is considered to have quit the employment with good cause attributable to the employer. Benefits are allowed.

DECISION:

The May 21, 2009, reference 01, decision is reversed. The claimant is eligible to receive unemployment insurance benefits, provided the claimant meets all other eligibility requirements.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/kjw