

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADSON L RABEH

Claimant

APPEAL NO: 10A-UI-08978-S

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC

Employer

OC: 05/10/10

Employer: Appellant (4)

Section 96.5-1-a – Voluntary Quit/Other Employment

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 18, 2010, reference 02, that held he voluntarily quit without good cause due to a non-work-related injury on May 16, 2010, and benefits are denied. A hearing was held on September 20, 2010. The claimant's Attorney, Dustin Gross, participated. Elizabeth Jerome, Account Manager, participated for the employer. Claimant Exhibits A and B was received as evidence. The parties agreed to a stipulation of fact when the interpreter failed to appear for the hearing, and no formal hearing could be held.

ISSUES:

Whether the claimant is voluntarily quit with good cause attributable to the employer.

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the stipulation of fact from the parties, and having considered the evidence in the record, finds: The claimant was employed as a "temp-to-hire" on April 24, 2009, and he was placed on assignment at Quad Graphics. The claimant worked until August 7 when he was hired by Quad Graphics as a full-time employee.

On February 10, 2010, the claimant and other employees were notified about a layoff, but the claimant was advised if he returned to the employer payroll, he could continue working. The claimant accepted the option and continued working at Quad Graphics. On April 7 the claimant was injured in a non-job-related auto accident while driving to work, and he notified Quad Graphics. During the period claimant was off work due to recovery and physical therapy, the employer transferred the claimant's payroll back to Quad Graphics on May 4, and it no longer considered him to have any employment relationship.

The claimant has fully recovered from his injury, and he has received an unrestricted release to return to work on August 5, 2010. The claimant is able and available for work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge concludes that the claimant voluntarily left for other employment at Quad Graphics where he maintained continuing employment until he suffered a non-job-related injury on April 7, 2010. The claimant's separation from employment is not disqualifying, as it is a voluntary leaving for other employment. The payroll transfer period from Quad Graphics to the employer on February 2, 2010, and the transfer back on May 4, 2010 is considered a leaving for other employment. No employer account is charged for benefits.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes the claimant is not able and available from the effective date of his claim, April 4, 2010 through August 5 due to his recovery from a non-job-related injury that occurred on April 7.

The administrative law judge further concludes the claimant is able and available for work effective August 8, 2010, because he has recovered from his injury and received an unrestricted release to return to work. While the release allows his return on August 5, he would not be able and available for a full workweek until August 8.

DECISION:

The department decision dated June 18, 2010, reference 02, is modified. The claimant voluntarily left for other employment on May 4, 2010. The claimant is not eligible for benefits due to his non-job-related injury from the effective date of his claim to August 8, 2010. The claimant is able and available for work effective August 8, 2010, and is entitled to benefits, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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