

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN R ABELE**  
Claimant

**APPEAL NO: 13A-UI-04089-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AVENTURE STAFFING & PROFESSIONAL**  
Employer

**OC: 03/03/13**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1)j – Temporary Employment Firm Separation

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 28, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he did not timely request another job assignment and as a result was considered to have voluntarily quit his employment without good cause. The claimant participated in the hearing. Nicole Postello, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant registered to work for the employer many years ago. He primarily worked spot jobs for the employer until he worked at a long-term assignment for about year. This long-term assignment ended in early September 2012. The claimant then contacted the employer about once a week for additional assignments.

The employer assigned and the claimant accepted a one day job on October 12, 2012. He also accepted a job assignment that began on October 17, 2012. On October 18 the claimant informed the employer that he had accepted a part-time job at Wal-Mart so his availability to work would change. On October 20, the claimant completed the assignment that had started on October 17. The claimant started working at Wal-Mart on October 24, 2012. The claimant stopped at the employer's office on October 26 to see if there were any spot jobs the employer could assign him to do.

The employer's policy requires a person to contact the employer within three days of completing an assignment for another assignment. If a person does not contact the employer within three working days, the employer assumes the person is not available for work.

## **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if he fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j. However, a claimant is eligible if he has good cause for not contacting the employer within three days and notifies the employer at the first reasonable opportunity for another assignment. 871 IAC 24.26(15).

The facts establish that the claimant notified the employer on October 18 that he was starting a part-time job at Wal-Mart so his availability would depend on the hours he was scheduled to work at Wal-Mart. After the claimant completed an assignment on Saturday, October 20, he started working at Wal-Mart on October 24. He then contacted the employer on October 26 about a spot job. He contacted the employer after he knew what hours he was scheduled to work at Wal-Mart. Under the facts of this case, the claimant established good cause for waiting until October 26 to contact the employer about another spot job assignment. The claimant is not disqualified from receiving benefits as of October 21, 2012. This means that based on this employment separation the claimant is not disqualified from receiving benefits as of March 3, 2013.

(The administrative record indicates the claimant earned requalifying wages between October 21, 2012, and March 3, 2013. This means that even if the claimant's employment separation on October 20 had been for disqualifying reasons, he had requalified by the time he established a new benefit year.)

## **DECISION:**

The representative's March 28, 2012 determination (reference 01) is reversed. The claimant established good cause for not contacting the employer about another spot job by October 24, 2012. He contacted the employer within a reasonable time, October 26, after learning what

hours he was scheduled to work at Wal-Mart and what hours he would be available to work for the employer. The reasons for the claimant's employment separation on October 20, 2012, do not disqualify him from receiving benefits as of October 21, 2012. As of October 21, 2012, and as of March 3, 2013, when the claimant established a new benefit year, he is qualified to receive benefits, if he meets all other eligibility requirements.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/tll