

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FARIS M OBAID
Claimant

APPEAL NO: 10A-UI-02113-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 11/29/09
Claimant: Appellant (2)

Section 96.5-1-j – Voluntary Leave Temporary Staffing Firm

STATEMENT OF THE CASE:

The claimant appealed a representative's January 25, 2010 decision (reference 02) that held him disqualified to receive benefits and the employer's account exempt from charge because the claimant voluntarily quit without good cause attributable to the employer. A telephone hearing was held on April 16, 2010. The claimant participated in the hearing. Jessica Fetters, a senior staffing specialist, appeared on the employer's behalf. Magdy Salama interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntary quit his employment for reasons that do not qualify him to receive benefits?

FINDINGS OF FACT:

The employer is a staffing firm. When applicants register to work for the employer, they sign paperwork informing them they must contact the employer within three days of completing a job assignment. The claimant started a job the employer assigned him to in October 2008. The employer's on-site supervisor told the claimant on December 2, 2008, there was no more work for the claimant to do.

When the claimant learned the assignment had been completed, he asked the employer's on-site supervisor if the employer had any more work for him to do. The supervisor told the claimant no. Also, the employer's representative informed the claimant that when the employer had another job for him, the employer would contact him. When the employer did not contact him, the claimant contacted the employer again in May 2009.

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. An individual who is a temporary employee of a temporary employment firm may be disqualified

from receiving unemployment insurance benefits if the individual 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 the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j.

The claimant established a claim for benefits during the week of November 30, 2008. A notice was mailed to the employer. At that time the employer was not a base period employer. The employer did not protest the claimant's receipt of unemployment insurance benefits. The claimant received benefits and then Emergency Unemployment Insurance benefits. The Department reviewed the claimant's wages to see if he was eligible to establish a new benefit year during the week of November 29, 2009. To start this process, the employer again received a notice of claim. Since this was a new benefit year, the employer was subject to some charges because the employer would be a base period employer. The employer protested the claimant's receipt of benefits during a second benefit year.

Since the claimant was not eligible to receive regular unemployment insurance benefits for reasons not connected with his employment separation, he continued receiving Emergency Unemployment Compensation based on his November 2008 claim. The point of this discussion is that the employer should have protested when a Notice of Claim was sent to the employer in December 2008. An employer's failure to do so can result in the claimant receiving benefits in one benefit year and being disqualified in a second benefit year even though the claimant's eligibility to receive benefits is based on the same employment separation.

In this case, the employer did not establish that Iowa Code § 96.5-1-j applies to this case. Instead, the facts indicate the employer's on-site supervisor told the claimant the assignment was over, the employer did not have any work for the claimant and the employer would call him when the employer had another job for him. Under these facts, the claimant completed a job and the employer did not have another job to assign him to. The claimant's employment separation does not constitute a voluntary for quit reasons that would disqualify him from receiving benefits nor does it constitute a discharge for work-connected misconduct. Instead, the claimant was basically laid off from work after he completed an assignment. For unemployment insurance purposes, the claimant is qualified to receive benefits as of November 30, 2008.

DECISION:

The representative's January 25, 2010 decision (reference 02) is reversed. The claimant finished a job assignment for the employer on December 2, 2008. Since the employer did not have another job to assign to him and specifically told the claimant that the employer would call him when there was another job, the claimant is qualified to receive benefits as of November 30, 2008, provided he meets all other eligibility requirements. Since the employer is not one of the

claimant's base period employers on his November 30, 2008 claim, the employer's account is not subject to charge for benefits to the claimant on this claim year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css