

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEVEN C BELL**  
Claimant

**APPEAL NO: 10A-UI-00211-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**USA STAFFING INC / LABOR WORLD IA**  
Employer

**OC: 11/15/09**  
**Claimant: Appellant (2)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26 – Temporary Employment

**STATEMENT OF THE CASE:**

Steven C. Bell (claimant) appealed a representative's December 28, 2009 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from USA Staffing, Inc. / Labor World, IA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 17, 2010. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant began taking assignments through the employer's Waterloo, Iowa office on or about July 20, 2009. He primarily worked assignments as a flagger for various road construction business clients. His last day working on a flagging assignment was on or about November 12, 2009. The assignment ended that date because the business client deemed the assignment to be completed. The claimant did contact the employer within three days of the end of the assignment to seek reassignment. He has additionally worked about three or four more assignments for the employer since November 12 doing snow removal or packaging work.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. 871 IAC 24.26(15).

Here, the employer has not established that it gave the claimant notice of the requirement to seek reassignment that was in compliance with the statutory provisions. More importantly, the claimant did seek reassignment within three days of the ending of the assignment. After the initial attempt to obtain reassignment, the claimant is not required by the statute to remain in constant contact with the employer after the ending of an assignment in order to remain "able and available" for work for purposes of unemployment insurance benefit eligibility. The separation itself is deemed to be completion of temporary assignment and not a voluntary leaving. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's December 28, 2009 decision (reference 02) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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