

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JIMMY L PENNY
Claimant

APPEAL NO. 08A-UI-00669-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**LA LEASING INC
SEDONA STAFFING**
Employer

**OC: 12/09/07 R: 04
Claimant: Appellant (2)**

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The claimant, Jimmy Penny, filed an appeal from a decision dated January 10, 2008, reference 04. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 5, 2008. The claimant participated on his own behalf. The employer, Sedona Staffing, participated by Unemployment Benefits Administrator Colleen McGuinty and Area Manager Kathy Hutchinson.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Jimmy Penny was employed by Sedona Staffing from January 16 until December 13, 2007. His last assignment was at Henderson Manufacturing and ended December 13, 2007. Mr. Penny did not notify Sedona Staffing of the end of his assignment nor did he request another one.

The employer maintains the claimant signed a notice at the time of hire which informed him of the requirement to contact Sedona Staffing within three working days of the end of each assignment to request more work. Failure to do so would be considered a voluntary quit. Mr. Penny denies any knowledge of that requirement and the employer did not provide any supporting documentation.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 claimant acknowledges he did not contact the employer within three working days of the end of his assignment at Henderson Manufacturing. He denies knowing he was required to do so. The employer's assertion Mr. Penny signed and acknowledged receipt of this requirement in writing has not been supported by any documentation provided to the administrative law judge. Therefore the employer has failed to rebut the claimant's testimony he was ever advised of this requirement. Under the provisions of the above Code section, disqualification may not be imposed without evidence of the written notification.

DECISION:

The representative's decision of January 10, 2008, reference 04, is reversed. Jimmy Penny is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css