

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUANE WHITEHALL
Claimant

APPEAL NO: 09A-UI-09289-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

R J PERSONNEL INC
Employer

OC: 05/10/09
Claimant: Respondent (4/R)

Iowa Code § 96.5-1-a - Voluntary Leaving - Other Employment
871 IAC 24.28(5) - Voluntary Quit Requalifications

STATEMENT OF THE CASE:

R J Personnel, Inc. (employer), doing business as Temp Associates, appealed an unemployment insurance decision dated June 18, 2009, reference 01, which held that Duane Whitehall (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 15, 2009. The claimant participated in the hearing. The employer participated through Holly Jacobi, Account Manager. 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:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a temporary general laborer assigned to work at Monsanto from December 17, 2007 through March 21, 2008 and again from December 1, 2008 through April 27, 2009. A new temporary agency named Zachry took over the placement of workers at Monsanto and the claimant was hired by Zachry at that time. Not all employees from the employer were hired by Zachry. Continuing work was available with the employer but not at Monsanto. The claimant worked for Zachry but subsequently separated from that company and his separation has not been litigated as of yet. Zachry has a corporate office in Texas with a local office in Muscatine, Iowa.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code § 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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code § 96.5(1). An exception is if the individual left in good faith for the sole purpose of accepting other employment and has performed services in the new employment at the time the claim for benefits is filed.

The claimant's separation from Zachry has not been litigated and this case is remanded for an investigation and determination on that issue.

DECISION:

The unemployment insurance decision dated June 18, 2009, reference 01, is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The employer's account shall not be charged. This case is remanded for further determination.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css