

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLEO R BARRETT**  
Claimant

**APPEAL NO. 08A-UI-07303-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**USA STAFFING INC  
LABOR WORLD**  
Employer

**OC: 06/15/08 R: 02**  
**Claimant: Appellant (2)**

Section 96.5(1)j – Quit/Temporary

**STATEMENT OF THE CASE:**

The claimant, Cleo Barrett, filed an appeal from a decision dated August 4, 2008, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 26, 2008. The claimant participated on his own behalf. The employer, Labor World, participated by Employment Consultant Charles Macy and was represented by Unemployment Services in the person of Jeff Oswald. Exhibit One was admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Cleo Barrett was employed by Labor World beginning September 20, 2007. His assignments were at the Iowa Events Center, and Employment Consultant Charles Macy would contact him whenever the client needed workers. The assignment would last a varying number of days.

During this time, the employer did not enforce the requirement for the claimant to contact the office within three days of the end of each assignment to request more work. After the end of the last assignment on April 25, 2008, the claimant did not call in within three days, as he expected the employer to contact him as usual. The employer therefore considered him a voluntary quit but did not explain why it chose to begin enforcing the policy.

**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 employer has asserted the claimant did quit by not contacting the office within three days of the end of the assignment on April 25, 2008. The administrative law judge acknowledges the claimant did sign a document notifying him of this requirement. However, since the employer did not choose to enforce that policy during the seven months the claimant worked for Labor World, it has no expectation the claimant would realize the "rules had changed" as of the end of a certain assignment. The claimant did not contact the employer within three days of the end of his last assignment because he believed, reasonably given the history of his employment, it would contact him when work was available. He was laid off for lack of work and this is not a disqualifying separation. Benefits are allowed.

#### **DECISION:**

The representative's decision of August 4, 2008, reference 02, is reversed. Cleo Barrett is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw