

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRED D DROESCHER
Claimant

APPEAL NO. 11A-UI-02725-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**LABOR SYSTEMS TEMPORARY SERVICE
ARIZONA LABOR FORCE INC**
Employer

**OC: 01/02/11
Claimant: Appellant (2)**

Section 96.5-1-j – Whether Claimant Sought Re-assignment from Temporary Employer
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated February 17, 2011, reference 02, which denied benefits finding that the claimant quit employment by failing to contact the temporary employment firm within three days of the completion of his most recent work assignment. After due notice, a telephone hearing was held on March 29, 2011. The claimant participated personally. The employer participated by Ms. Judy Poarch, General Manager.

ISSUE:

At issue is whether the claimant filed a timely appeal and whether the claimant contacted the temporary employment service within three days of the completion of his most recent assignment.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Fred Droescher filed an appeal from the February 7, 2011, reference 02, fact-finder's decision in a timely manner, however, the appeal was not entered through no fault of the claimant. Subsequently the claimant was informed that an appeal had not been entered and re-filed his appeal.

Mr. Droescher was employed by Labor Systems Temporary Service from May 9, 2007 until December 3, 2010 when his most recent assignment came to an end. Mr. Droescher was most recently assigned to work as a production worker at Future Foam Company from September of 2010 until the assignment ended on December 3, 2010.

Upon being informed by Future Foam that his assignment was ending on December 3, 2010, Mr. Droescher visited the Labor Systems Temporary Service offices after the completion of work that day to report that the assignment had ended and to see if any other assignments were available. At that time the claimant was told there were no assignments available. The claimant

asked to be contacted when an assignment became available and the representative agreed to do so. Mr. Droescher had no further contact with this temporary employer believing that the employer would call him. The claimant began to seek other employment for educational opportunities through Workforce Development the following week.

It is the employer's position that contacting the employer at the end of the business day was not sufficient to notify the employer that the assignment had ended or to seek employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant left employment with good cause attributable to the employer.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of a temporary assignment. The evidence in the record shows that Mr. Droescher personally contacted the employer's office on the evening of December 3, 2010 to determine whether additional work assignments were available and to inform the temporary employer that his most recent assignment with Future Foam had ended. The claimant indicated his availability for additional assignments and relied upon the employer's representative's statements that they would contact the claimant if further assignments became available.

Having reviewed the evidence in the record the administrative law judge concludes that the claimant has established good cause for late filing of his appeal. The administrative law judge further concludes that the claimant has complied with the purpose of the statute by providing notice to the temporary agency employer that he was available for work at the conclusion of his temporary assignment. Unemployment insurance benefits are allowed providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated February 17, 2011, reference 02, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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