

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA J CASTLEBERRY
Claimant

APPEAL NO. 09A-UI-02449-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/04/09
Claimant: Respondent (1)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Team Staffing, filed an appeal from a decision dated February 9, 2009, reference 01. The decision allowed benefits to the claimant, Melissa Castleberry. After due notice was issued, a hearing was held by telephone conference call on March 11, 2009. The claimant participated on her own behalf. The employer participated by Claims Administrator Sarah Fiedler. 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:

Melissa Castleberry was employed by Team Staffing from June 9, 2008 until August 5, 2008. During that time her one assignment was at HJ Heinz company. She was required to call in daily to find out whether she was scheduled that day, and was free to decline if it conflicted with the schedule of her other job.

Her last day of work was July 31, 2008, and she did not call in or come to work after that date until she came to the office and signed in on September 26, 2008, but has not been offered any assignments after that time.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 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.

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 claimant was "assigned" to HJ Heinz company but not for a regular day to day extended assignment. There was no specific guarantee of work every day and Team Staffing employees would have to come or call in every day to determine if there was work for them, and they could decline a daily assignment without negative repercussions. The administrative law judge considers this particular arrangement to be more in line with "casual labor" or "spot jobs" as in the above Administrative Code sections. She completed each of the daily assignments she accepted and her decision not to report for further assignment is not a disqualifying issue.

DECISION:

The representative's decision of February 9, 2009, reference 01, is affirmed. Melissa Castleberry is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css