

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**RAYMOND J FULLER
1911 WASHINGTON AVE
DES MOINES IA 50314**

**DES STAFFING SERVICES INC
3326 INDIANOLA AVE
DES MOINES IA 50315**

**Appeal Number: 05A-UI-07388-CT
OC: 06/12/05 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Raymond Fuller filed an appeal from a representative's decision dated July 15, 2005, reference 03, which denied benefits based on his separation from DES Staffing Services, Inc. (DES). After due notice was issued, a hearing was held by telephone on August 4, 2005. Mr. Fuller participated personally and offered additional testimony from Willamenia Jordan. The employer participated by Kathy Anderson, Human Resources Coordinator. Exhibits One and Two were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Fuller began working through DES on March 8, 2004. His last assignment was with Millard Refrigerated where he began working full-time hours on October 11, 2004. Prior to the end of the assignment, he requested that the employer find him an alternative assignment.

Mr. Fuller was to start an assignment with Osceola Foods on December 13 but could not because he was arrested. He and his sister notified the employer that he would be unable to work due to being in jail. Mr. Fuller remained in jail until March of 2005. He returned to DES on May 26, 2005 to seek further work. Continued work would have been available for Mr. Fuller in December if he had not been in jail.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Fuller was separated from employment for any disqualifying reason. The parties disagree on whether he abandoned his job with Millard Refrigerated or whether he was reassigned to a different employer. The administrative law judge need not determine the issue as the fact remains that Mr. Fuller was not available to work for DES at any point after December 13, regardless of where he was assigned to work. He left employment because he was in jail. An individual who leaves employment due to incarceration is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(16). An individual who quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1).

For the reason stated herein, it is concluded that Mr. Fuller was separated from employment for no good cause attributable to the employer. Accordingly, benefits are denied.

DECISION:

The representative's decision dated July 15, 2005, reference 03, is hereby affirmed. Mr. Fuller quit his employment with DES for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/sc