

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JED BRUNK
Claimant

APPEAL NO. 09A-UI-01364-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES**
Employer

**OC: 12/21/08 R: 01
Claimant: Appellant (2)**

Section 96.5-1-j – Voluntary Leaving/Temporary Employment

STATEMENT OF THE CASE:

Jed Brunk filed an appeal from a representative's decision dated January 22, 2009, reference 01, which denied benefits based upon his separation from Manpower International. After due notice was issued, a telephone hearing was scheduled for and held on February 17, 2009. Mr. Brunk participated personally. Although duly notified, the employer did not participate.

ISSUE:

At issue is whether the claimant voluntarily left employment by failing to contact the temporary employment service within three days of the completion of an assignment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant was last employed by Manpower International from April 2005 until December 18, 2008 as a production worker at the MSK Corporation. Mr. Brunk was informed by Manpower International that the assignment at MSK Corporation was ending. Mr. Brunk had not been advised that he was to contact Manpower International within three days of the completion of this or any other work assignment. Mr. Brunk contacted Manpower International on a weekly basis for additional assignments however no assignments had been available. At the time of hire the employer did not notify the claimant that he had an obligation to contact the temporary employer within any specified period. It was the claimant's understanding that weekly contact was sufficient.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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.

Since there is no evidence the employer provided the claimant with a written copy of the reporting policy, and it is the claimant's recollection that he did not receive notice of the reporting policy the administrative law judge finds the claimant to be a credible witness and finds that his testimony was not inherently improbable. In this case the claimant was notified that the assignment was ending by Manpower International and followed a reasonable course of action by contacting Manpower International on a weekly basis for additional job assignments. Benefits are allowed.

The purpose of the statute is to provide notice to the temporary employer that the claimant is available for work at the conclusion of the temporary assignment. In this case the employer had notice of the claimant's availability because they notified him of the end of the assignments. Benefits are allowed.

DECISION:

The January 22, 2009, reference 01, decision is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about his availability as required by the statute. Benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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