

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSE L LUTGEN

Claimant

APPEAL NO. 08A-UI-00876-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LA LEASING INC

SEDONA STAFFING

Employer

OC: 11/18/07 R: 04

Claimant: Respondent (4)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, Sedona Staffing, filed an appeal from a decision dated January 15, 2008, reference 02. The decision allowed benefits to the claimant, Jesse Lutgen. After due notice was issued, a hearing was held by telephone conference call on February 11, 2008. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Unemployment Benefits Administrator Colleen McGuinty and Account Manager Carrie Cannon. 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:

Jesse Lutgen was employed with Sedona Staffing beginning April 4, 2004. He did not work steadily but only from time to time. At the time of hire he signed an acknowledgement which informed him he must contact the employer within three working days of the end of each assignment to request more work.

The claimant's last assignment ended October 21, 2007, and before that date he had also agreed to work a one-day assignment on October 23, 2007. He called in to cancel that assignment because he was having leg pains and never contacted Sedona Staffing after that to request more work.

The majority Mr. Lutgen's base period wages were earned with other employers in what appears to be full-time work. His earning with Sedona Staffing were small amounts in only one quarter of the base period which fell between other employment.

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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as

determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant quit Sedona Staffing without good cause attributable to the employer by not contacting the temporary agency within three working days of the end of his assignment. However, this was part-time work as the majority of his wages were earned with other employers. The claimant is qualified provided he is monetarily eligible for benefits after the removal of his wages earned with Sedona Staffing.

DECISION:

The representative's decision of January 15, 2008, reference 02, is modified in favor of the appellant. Jesse Lutgen is qualified for benefits, provided he is otherwise monetarily eligible. However, the account of Sedona Staffing will not be charged with benefits paid to the claimant.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

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