

**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**

**RICHARD OCHOA
309 GRANDVIEW AVE
MUSCATINE IA 52761**

**TEAM STAFFING SOLUTIONS INC
116 HARRISON ST
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-10939-CT
OC: 09/05/04 R: 04
Claimant: Respondent (2)**

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)j – Temporary Employment
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Team Staffing Solutions, Inc. filed an appeal from a representative's decision dated October 5, 2004, reference 06, which held that no disqualification would be imposed regarding Richard Ochoa's August 13, 2004 separation from employment. After due notice was issued, a hearing was held by telephone on November 4, 2004. The employer participated by Wendy Clang, Claims Specialist. Exhibits One and Two were admitted on the employer's behalf. Mr. Ochoa did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Ochoa began working through Team Staffing Solutions, Inc., a temporary placement firm, on July 13, 2004 and was assigned to work at Menasha Packaging. He became separated from the assignment on July 29 when he failed to report for scheduled work. He was not discharged from Team Staffing Solutions, Inc. at that time but was offered a new assignment.

On August 4, Mr. Ochoa began working for OFC Panel. He completed the assignment on August 13 but did not contact Team Staffing Solutions, Inc. until September 14. On April 9, 2004, Mr. Ochoa had signed a document (Exhibit One) which advised that he had to seek reassignment within three working days following the end of an assignment. This requirement was the only issue covered by the document and a copy of the document was given to Mr. Ochoa at the time he signed it. He filed a claim for job insurance benefits effective September 5, 2004. He has received a total of \$242.00 in benefits since filing his claim.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Ochoa was separated from employment on August 13, 2004 for any disqualifying reason. He became unemployed at that point because he had completed his last temporary assignment. However, Mr. Ochoa did not seek reassignment within three working days after his assignment with OFC Panel ended on August 13. He did not contact his employer again until September 14. The administrative law judge concludes that the document signed by Mr. Ochoa on April 9, 2004 complied with the notice requirements of Iowa Code section 96.5(1)j. Because Mr. Ochoa did not seek reassignment within three working days and has not presented any good cause for not doing so, he is denied job insurance benefits pursuant to section 96.5(1)j.

Mr. Ochoa has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated October 5, 2004, reference 06, is hereby reversed. Mr. Ochoa quit his employment with Team Staffing Solutions, Inc. on August 13, 2004 when he failed to seek reassignment as required. 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. Mr. Ochoa has been overpaid \$242.00 in job insurance benefits.

cfc/kjf