

**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**

**DOUGLAS B JOHNSON
520 – 11TH ST
WEST DES MOINES IA 50265**

**WAUKEE COMMUNITY SCHOOL DISTRICT
560 SE UNIVERSITY
WAUKEE IA 50263**

**Appeal Number: 04A-UI-07561-DT
OC: 06/06/04 R: 02
Claimant: Appellant (2/R)**

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 Leaving
871 IAC 24.26(22) – Temporary Employment

STATEMENT OF THE CASE:

Douglas B. Johnson (claimant) appealed a representative's June 28, 2003 decision (reference 04) that concluded he was not qualified to receive unemployment insurance benefits due to a conclusion he had quit his employment with Waukee Community School District (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 4, 2004. The claimant participated in the hearing. Kathy Niblo appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant has base period wages for work performed as a substitute teacher in the employer's school district as well as other school districts, and also has base period wages from a non-school employer. During the 2003-2004 school year, the claimant worked in the employer's district as a substitute for 25 days, the last of which was March 8, 2004. The claimant has not informed the school district that he no longer wishes to be considered or called as a substitute teacher, and the employer has not taken action to exclude the claimant from being called as a substitute teacher.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment.

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(22) 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:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. 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 employees shall be considered to have voluntarily quit employment.

The employer hired the claimant on a temporary basis for a specific period of time, the days he was called to work as a substitute teacher. The claimant completed the contract of hire by working until that time had elapsed. Eligibility for unemployment insurance benefits is not conditioned on whether the employment was permanent or temporary, or whether the claimant as a temporary employee was eligible for employment benefits otherwise provided by the employer to its permanent employees. The temporary ending of the claimant's employment with the employment was not in and of itself disqualifying. Benefits are allowed, if the claimant is otherwise eligible.

An issue as to whether the claimant's wages from the employer and other school districts can be the basis of benefits claimed between academic terms arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue, and recalculation of benefits as may be necessary. 871 IAC 26.14(5).

DECISION:

The representative's June 28, 2004 decision (reference 04) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary contract of hire. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the between academic term issue.

ld/kjf