

**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**

**TERRANCE COMBS
4454 N DIVISION #202
DAVENPORT IA 52806**

**RIVERSIDE STAFFING SERVICES INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283**

**Appeal Number: 05A-UI-06626-DWT
OC: 05/01/05 R: 02
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 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Riverside Staffing Services, Inc. (employer) appealed a representative's June 7, 2005 decision (reference 02) that concluded Terrance Combs (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 13, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Stacey Sheldon, the office manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant registered to work for the employer on January 21, 2005.

The employer assigned the claimant to a job at LFI Trucking Company on January 31, 2005. The claimant completed this job assignment on March 11, 2005. The employer then assigned the claimant to another job that started March 17, 2005. The claimant started working at this assignment. After the claimant left for lunch on March 17, he contacted the employer indicating he could not return to work that day because of transportation problems. The claimant could have returned to this job assignment on March 21, but indicated he was not available on March 21, 2005.

The employer talked to the claimant on March 29 about another job that started the next day. The employer understood the claimant accepted this job and asked him to stop at the employer's office to pick up a badge so he could get into this customer's facility. The claimant did not pick up the badge and did not report to the assignment the next day. In early May when the claimant contacted the employer, the claimant indicated he had forgotten to pick up the badge on March 29 or 30.

The claimant established a claim for unemployment insurance benefits during the week of May 1, 2005. He filed claims for the weeks ending May 7 through July 9, 2005. The claimant received \$1,880.00 in benefits for these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts do not establish that the employer discharged the claimant. Instead, the evidence shows the employer had continuing work for the claimant to do and assigned him to other jobs. The claimant accepted a job that was to begin on March 30, but he did not report to that job and did not contact the employer again until early May. The claimant's failure to report to a job after he had accepted it in conjunction with his failure to keep in contact with the employer demonstrates that the claimant intended to quit working for the employer. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The claimant may have had compelling reasons for abandoning his employment relationship with the employer. Since the claimant did not participate in the hearing, the evidence does not establish why he chose to discontinue his employment relationship. Therefore, the facts do not establish that the claimant quit his employment for reasons that qualify him to receive

unemployment insurance benefits. As of May 1, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending May 7 through July 9, 2005. The claimant has been overpaid a total of \$1,880.00 in benefits.

DECISION:

The representative's June 7, 2005 decision (reference 02) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 1, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending May 7 through July 9, 2005. The claimant has been overpaid and must repay \$1,880.00 in benefits he received for these weeks.

dlw/kjw