

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NORMAN M CAMERON
Claimant

APPEAL NO: 13A-UI-04505-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 03/10/13

Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Norman M. Cameron (claimant) appealed a representative's April 5, 2013 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Team Staffing Solutions, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 23, 2013. The claimant participated in the hearing, was represented by Toby Gordon, attorney at law, and presented testimony from one other witness, Stacey Sturek. Sarah Fiedler 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.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on August 3, 2012. After a work-related injury on the initial full-time assignment, the claimant was moved into a light duty assignment which began on September 14, 2012. He worked part time as a general laborer at the employer's business client through October 15, 2012.

As of October 15 the claimant was released by his doctor to return to work without any restrictions. On that date the claimant brought his release to the employer's branch manager. The branch manager told him that as his current assignment was only for light duty work, that assignment was ended. The claimant inquired about returning to his assignment with the initial business client; the branch manager told him she would check, and that he should call her back in two days.

On October 17 the claimant did call the branch manager and she advised him that the business client did not have a current position open for the claimant. She indicated to him that he would be placed on a waiting list for work.

When the employer had no further contact from the claimant, it considered the claimant to have failed to seek reassignment within three days of the ending of the assignment as required by the employer's policies to avoid being considered to be a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

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

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. By the claimant's contact with the employer on October 15 and October 17 he was clearly making himself available to the employer for new work. He substantially complied with the requirement that he seek reassignment, even if he did not explicitly word his request for work to the employer in the manner the employer seeks to require. The claimant is not required by the statute to remain in regular periodic contact with the employer in order to remain "able and available" for work or to repeatedly ask for reassignment for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's April 5, 2013 decision (reference 01) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs