

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

DERRICK L PEOPLES
1644 CAPITOL
DES MOINES IA 50316

DOBBS TEMPORARY SERVICES INC
PRO STAFF – DES MOINES
5215 N O'CONNOR BLVD #925
IRVING TX 75039

Appeal Number: 04A-UI-09943-DWT
OC: 08/15/-4 R: 02
Claimant: Respondent (1/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 are 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 Separation with a Temporary Employment Firm

STATEMENT OF THE CASE:

Pro Staff – Des Moines (employer) appealed a representative's September 3, 2004 decision (reference 02) that concluded Derrick L. Peoples (claimant) was eligible to receive unemployment insurance benefits, and the employer's account was subject to charge because even though the claimant was still working, he was not working the same hours as he had during his base period. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 6, 2004. The claimant participated in the hearing. Jennifer Wolver, the manager, 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:

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?

FINDINGS OF FACT:

The claimant registered to work for the employer on November 17, 2003. Prior to establishing a claim for benefits, the employer assigned the claimant to a job on July 12, 2004. Although the client had more work for the claimant to do, the client asked the employer to remove the claimant from the job on August 4, 2004. Initially, neither the employer nor the client realized the claimant had called and left a message that he was unable to work on August 4 because of a personal emergency. When the claimant did not report to work on August 4, the client discovered the claimant's computer had not been working that week. The client was upset because the claimant had not reported this problem and the client paid the claimant to do nothing when his computer was not working. When his computer did not work, the claimant tried to find a manager to report this problem, but he could not find a manager to report the problem.

On August 5, the claimant called and talked to an employer representative. The claimant asked for another assignment. The employer did not have any assignment for him at that time and asked him to call again in a few days. The claimant did not contact the employer again until August 18. On August 23, the claimant declined an assignment. The claimant told the employer he could not accept the assignment because he was working full time for another temporary employment firm.

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. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code §96.5-1-j. The facts indicate that even though the client did not want the claimant to continue at their business, the employer did not end the claimant's employment relationship because the employer continued to look for job assignments for the claimant.

The claimant asked about another job assignment on August 5. As of August 5, the employer did not have another job to assign to the claimant and asked him to call back in a few days. The claimant is not disqualified under Iowa Code §96.5-1-a.

Issues of whether the claimant had good cause to refuse the employer's August 23, 2004 offer of work and properly reported any wages he earned after August 15, 2005 are remanded to the Claims Section.

DECISION:

The representative's September 3, 2004 decision (reference 02) is affirmed. The employer did not discharge or end the employment relationship on August 4. The claimant satisfied the requirements of Iowa Code §96.5-1-j when he talked to an employer representative on August 5, 2004. As of August 4, 2004, the claimant's job assignment ended and the employer did not have another job to assign to him right away. Therefore, as of August 15, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. Issues of whether the claimant properly reported wages and whether he refused the employer's August 23, 2004 with good cause are remanded to the Claims Section to investigate and issue a written decision to the parties.

dlw/pjs