

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRYAN O'NEAL
Claimant

APPEAL NO: 08A-UI-10416-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF DES MOINES
Employer

OC: 08/17/08 R: 02
Claimant: Respondent (5)

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Manpower Inc. of Des Moines (employer) appealed an unemployment insurance decision dated October 27, 2008, reference 02, which held that Bryan O'Neal (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2008. The claimant participated in the hearing. The employer participated through Heather Malm, Staffing Consultant. 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:

The issue is whether the claimant contacted the temporary employment agency after the completion of his assignment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a temporary customer service representative from June 9, 2008 through June 26, 2008. He told the employer he did not like his current assignment on June 25, 2008 and did not report to work on June 26, 2008. The client discontinued the contract on June 26, 2008. The employer said the claimant was eligible for additional assignments but failed to check in for work. The employer does not have a separate notification policy for its employees. The claimant testified he checked in for additional assignments for the next three weeks but none were available.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. See Iowa Code §§ 96.5-1 and 96.5-2-a. Temporary employment agencies are governed by Iowa Code

§ 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualifying for unemployment insurance benefits after a voluntary separation.

Iowa Code § 96.5-1-j 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, but the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The employer has not provided sufficient evidence to indicate its end-of-assignment notification policy satisfies the requirements of Iowa Code § 96.5(1)(j). However, the claimant testified he contacted the employer at the end of his assignment and for the next three weeks. His testimony is credible. The claimant is considered to have voluntarily quit with good cause attributable to the employer and benefits are allowed.

DECISION:

The unemployment insurance decision dated October 27, 2008, reference 02, is modified with no effect. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw