

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUAN DELGADO
Claimant

APPEAL NO. 10A-UI-10906-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 12/20/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Juan Delgado filed an appeal from an unemployment insurance decision dated January 28, 2010, reference 03, that disqualified him for benefits. After due notice was issued, a telephone hearing was held September 20, 2010 with Mr. Delgado participating. Claims Administrator Sarah Fiedler participated for the employer, Team Staffing Solutions. Exhibit D-1 was admitted into evidence.

ISSUES:

Has the claimant filed a timely appeal?

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Juan Delgado was employed by Team Staffing Solutions on assignment with H J Heinz starting on January 26, 2009. He last worked on December 3, 2009. The assignment was for on-call work. Mr. Delgado was responsible for remaining in contact with the account manager for Team Staffing Solutions. After December 3, 2009 he did not contact his employer until December 9, 2009. He then provided a phone number for a phone which was not in service. As of December 18, 2009 he had not gotten back in touch with the account manager. His assignment was closed on December 31, 2009. He then called Team Staffing Solutions on January 6, 2010 to say that he had been ill.

At this time Mr. Delgado lived at 810 East Seventh Street, Muscatine, Iowa. A decision was mailed to Mr. Delgado at that address on January 28, 2010. Although Mr. Delgado did not receive the decision, he did not inquire of the Agency as to why he did not receive benefits for any weeks after January 23, 2010.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the claimant has filed a timely appeal. Iowa Code section 96.6-2 gives parties ten days from the date of a fact-finding decision to file an appeal. In the absence of a timely appeal, the administrative law judge has no jurisdiction to rule on the merits of a case. See Franklin v. Iowa Department of Job Service, 277 N.W.2d 877, 881 (Iowa 1979). The claimant's explanation as to why he did not contact the Agency when benefits ended strains credibility. Still, there is no evidence that he actually received the adverse decision. The administrative law judge concludes that he has jurisdiction to rule on the merits of this case.

The remaining question is whether the claimant's separation from employment was a disqualifying event. It was.

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.

The evidence establishes that Mr. Delgado first contacted his employer six days after he last worked and provided the employer with a nonworking telephone number. He then did not contact the employer until January 6, 2010, explaining that he had been ill. Given the on-call nature of the assignment the administrative law judge concludes that the claimant abandoned his work by failing to maintain contact with the employer. Benefits are withheld.

DECISION:

The unemployment insurance decision dated January 28, 2010, reference 03, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/css