

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

SALLY M VITERA
410 STATE ST
GRINNELL IA 50112

MANPOWER INC OF CDR RPDS
1220 INDUSTRIAL AVE
HIAWATHA IA 52233-1155

Appeal Number: 06A-UCFE-00012-SWT
OC: 12/18/05 R: 02
Claimant: Appellant (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-j – Separation from Temporary Agency

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 13, 2006, reference 03, that concluded she had voluntarily left employment without good cause attributable to the employer. A telephone hearing was held on April 10, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Teresa Neuendors. Janet Katlec participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, she signed a statement that she would be considered to have voluntarily quit employment if she did not contact the employer within three working days after the completion of a job assignment or failed to contact the employer weekly thereafter.

The claimant worked for the employer from November 3, 2005, to January 27, 2006. She was assigned to work as a production worker at Magna Company. While the claimant was preparing to report to work on January 30, she received a call from a staffing representative, Ashley Leytham, informing her that her assignment at Magna Company had ended due to her not meeting production standards. Leytham did not inform the claimant about any other job openings. The claimant called the next day and spoke to Leytham about her removal from the assignment. Leytham told the claimant to give them a call if she needed the employer later on. The claimant called one more time that week about the removal from the assignment at Magna Company. Since then, the claimant and the employer have not had further contact.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The evidence establishes that the claimant substantially complied with Iowa Code section 96.5-1-j in that after the employer removed the claimant from the assignment, the claimant called the employer twice more during that week. The employer knew the claimant was available for other work and told her to call in afterward if she "needed the employer." While the employer's policy requires employees to call in weekly after an assignment has ended, that is not required by the statute.

The evidence fails to establish the claimant voluntarily quit her employment or was discharged for work-connected misconduct as defined by 871 IAC 24.32(1). The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated March 13, 2006, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

saw/pjs