

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RALPH C KELLEY
Claimant

APPEAL NO. 07A-UI-02820-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLEGIANCE STAFFING
Employer

OC: 02/11/07 R: 01
Claimant: Respondent (1)

Iowa Code section 96.5(1)(j) – Separation From Temporary Employment
871 IAC 24.26(19) - Separation From Temporary Employment

STATEMENT OF THE CASE:

Allegiance Staffing filed a timely appeal from the March 14, 2007, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on April 4, 2007. Claimant Ralph Kelley participated. Russell Mann, General Manager, represented the employer. The administrative law judge took official notice of Iowa Workforce Development's records concerning benefits disbursed to the claimant and received employer's Exhibits One and Two into evidence.

ISSUE:

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ralph Kelley commenced his employment relationship with Allegiance Staffing on November 19, 2006. The employer is a temporary employment agency. Allegiance Staffing placed Mr. Kelley in one assignment. That assignment was a full-time position at FCA Construction in Omaha. The assignment ended on February 9, 2007 because the portion of the construction project to which Mr. Kelley was assigned had been completed and FCA Construction no longer needed Mr. Kelley's services.

On February 9, 2007, Mr. Kelley went to the Allegiance Staffing office and spoke to a human resources representative. Mr. Kelley told the representative that the assignment had ended that day. Mr. Kelley inquired whether the agency had other assignments for him. The human resources representative advised him that the agency did not have any assignments available. Mr. Kelley provided contact information and the human resources representative agreed to contact Mr. Kelley if and when additional assignments became available.

On November 19, 2006, Allegiance Staffing had Mr. Kelley execute an "Allegiance Employment Agreement." Included in that document was a section with the heading "Notification of

Nebraska Law Regarding Unemployment Benefits.” The text contained under that heading obligated Mr. Kelley to “contact Allegiance Staffing for reassignment upon completion of each assignment.” The policy required that this contact be in person at the employer’s office.

Mr. Kelley resides in Iowa and established a claim for benefits in Iowa. That claim was effective February 11, 2007. Mr. Kelley received benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The evidence indicates that Mr. Kelley is an Iowa resident and that he established an Iowa claim for unemployment insurance benefits. Iowa law controls his eligibility for benefits on the Iowa claim. The evidence indicates that the employer lacked a notification policy that complied with Iowa Code section 96.5(1)(j). Accordingly, any decision on the part of Mr. Kelley not to further pursue additional assignments would not disqualify him for benefits. See 871 IAC 24.26(19). The evidence further indicates that Mr. Kelley did in fact comply with the employer's notification policy by notifying the employer the same day the assignment ended that he was available for further assignments. The employer's daily reporting policy was unreasonable and would not disqualify Mr. Kelley for benefits under the applicable law.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Kelley's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Kelley is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Kelley.

DECISION:

The claims representative's March 14, 2007, reference 02, decision is affirmed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs