

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RINA RAMOS
Claimant

APPEAL NO. 10A-UI-04335-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

**Original Claim: 02/14/10
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Rina Ramos (claimant) appealed an unemployment insurance decision dated March 16, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Team Staffing Solutions, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 17, 2010. The claimant participated in the hearing with Attorney Josh Gual. Ike Rocha interpreted on behalf of the claimant. The employer participated through Sarah Fiedler, Claims Administrator. 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 is disqualified for failure to contact the temporary employment agency within three working days after the completion of her assignment, if and when notified of this requirement at the time of hire?

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 hired as a temporary production employee on October 16, 2009. At the time of hire, the claimant signed an availability statement which advised her of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability, and failure to do so would be considered as a voluntary quit. The claimant was given a copy of the availability statement, which is not part of the application or contract of employment.

The claimant started her last assignment with Civco Medical Instruments on October 21, 2009. Civco called the employer on February 15, 2010 and requested the claimant not return. The employer called the claimant's daughter's telephone and left a message for the claimant, as it was the only number the employer had for the claimant. The claimant returned to Civco on February 16, 2010 and Civco told the claimant to report to the employer. The claimant returned

to the employer's office on February 16, 2010 and the employer advised her that the assignment was over. The claimant did not request additional work but asked where the local unemployment office was located.

The employer had an assignment for the claimant and left a phone message on February 19, 2010. The claimant returned the telephone call on February 22, 2010, but declined the job offer because she said she had no child care. The employer called the claimant again on February 23, 2010 and left a message, but the claimant never returned the call. The employer called the claimant on March 1, 2010 and the claimant returned the call on March 3, 2010 and again refused a job offer due to lack of child care issues. The claimant filed for and received unemployment insurance benefits during this same time frame and reported that she was able and available to work. The employer tried to call the number for the claimant on April 9, 2010, but the number had been disconnected. The employer never heard from the claimant after that.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and 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 qualification 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 evidence indicates the claimant knew or should have known she was required to request additional work after the completion of her last assignment but failed to do so. Additionally, the employer tried to offer the claimant additional work on four separate days but could not reach her on two of those days. The claimant refused the work on the other two days. Her testimony was somewhat questionable, because she claimed the job assignment ended in January 2010 but continued to work until February 16, 2010. The claimant did not satisfy the requirements of Iowa Code § 96.5-1-j and is disqualified from receiving unemployment insurance benefits as of February 19, 2010.

DECISION:

The unemployment insurance decision dated March 16, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw