

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEJANDRO ARROYO

Claimant

APPEAL NO: 12A-UI-14454-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC

Employer

OC: 10/14/12

Claimant: Respondent (4/R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Axcess Staffing Service, L.L.C. (employer) appealed a representative's November 28, 2012 decision (reference 04) that concluded Alejandro Arroyo (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 10, 2013. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Alyce Smolsky of TALX Employer Services appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a disqualifying reason?

OUTCOME:

Modified. Benefits allowed; employer's account relieved of charge.

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant began working an intermittent assignment with the employer's Iowa City, Iowa business client on November 17, 2011. The separation addressed in the representative's decision occurred on September 6, 2012. The claimant's employment in the assignment at least temporarily ended as of that date because the claimant informed the employer that he had work with another employer, and would not be able to return to the scheduled work on September 10. Agency records indicate that the claimant did have wages with another employer during this period.

The claimant returned to working with the employer on October 25, 2012. He worked varying hours each week, but he last worked for the employer on December 5, 2012. He informed the employer on December 5 that he was leaving for Puerto Rico and would not be returning. This December 5, 2012 separation has not been addressed by a Claims representative.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for a non-disqualifying reason. Iowa Code § 96.5-1. One reason a voluntary quit is non-disqualifying is if an employee quits for the reason of accepting and entering into new employment. Iowa Code § 96.5-1-a. However, under these circumstances the employer's account is also not subject to charge.

The claimant did voluntarily quit in order accept other employment. The claimant is not disqualified from receiving benefits as a result of his quit September 6, 2012 from the employer in this case, but the employer's account will not be charged.

An issue as to whether there was another separation from employment with the employer on December 5, 2012 which might be disqualifying arose during the hearing. This issue has not been previously adjudicated, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The representative's November 28, 2012 decision (reference 04) is modified in favor of the claimant. The claimant voluntarily left his employment on September 6, 2012, but the quit was not disqualifying. The claimant is eligible for unemployment insurance benefits, provided he is otherwise eligible. The employer's account will not be charged. The matter is remanded to the Claims Section for investigation and determination of the December 5, 2012 separation issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs