

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

PATRICIA A CUMBO
P O BOX 1112
2369 DUNHAM ST
CLINTON IA 52732

L A LEASING INC
SEDONA STAFFING
612 VALLEY DRIVE
MOLINE IL 61265

JOHN GRAUPMANN
LEGAL ASSISTANT
736 FEDERAL STREET
DAVENPORT IA 52803

Appeal Number: 04A-UI-10345-DT
OC: 08/15/04 R: 04
Claimant: Respondent (1)

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 – Temporary Employment
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

L A Leasing, Inc., d/b/a Sedona Staffing (employer), appealed a representative's September 14, 2004 decision (reference 01) that concluded Patricia A. Cumbo (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 15, 2004. The claimant participated in the hearing and was represented by Legal Assistant John Graupmann. Colleen McGuinty appeared on the employer's behalf and presented testimony from one other witness, Laurie Susie. 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:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on August 8, 1999. Her most recent assignment began on March 31, 2003. She worked full time as a light industrial laborer on the first shift (7:00 a.m. to 3:00 p.m., Monday through Friday) at the employer's Clinton, Iowa business client through July 19, 2003. The assignment ended that date because the business client deemed the assignment to be completed. The business client informed the employer of the completion of the assignment on or about July 20, 2003. The employer contacted the claimant the same day and told her not to report for work on Monday, July 21. The claimant wanted to know why, and the employer's representative indicated that she would try to find out why. On July 21, the claimant went into the employer's Clinton office, and the employer's representative informed the claimant that the work on the machine the claimant had been assigned to had been completed, but that she could be put back on the assignment if more work became available. The claimant expressed her desire for more work. Although the records maintained by the employer do not reflect the claimant's contacts, the claimant did regularly check in with the employer for work.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment.

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.

The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working and could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. Where a temporary employment assignment has ended and the employer is aware of the end of that assignment, the employer is already on "notice" that the assignment is ended and the claimant is available for a new assignment; where the claimant knows that the employer is aware of the ending of the assignment, she has good cause for not separately "notifying" the employer. The statute does not require that a claimant seek reassignment, it only requires that the employer have "notice" of the end of the assignment.

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. Regardless of whether the claimant reported for a new assignment, the separation is deemed to be a completion of the temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Further, the facts in this case indicate that the claimant indeed did affirmatively make herself available for new assignments with the employer. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's September 14, 2004 decision (reference 01) is affirmed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Id/s