

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICK W MCPHERREN
Claimant

APPEAL NO. 09A-UI-05490-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC – LABOR WORLD
Employer

OC: 03/01/09
Claimant: Respondent (1)

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

USA Staffing, Inc. filed an appeal from a representative's decision dated March 30, 2009, reference 01, which held that no disqualification would be imposed regarding Patrick McPherrren's separation from employment. After due notice was issued, a hearing was held by telephone on May 5, 2009. The employer participated by Renee Drown, Branch Manager. Mr. McPherrren did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. McPherrren was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. McPherrren was employed by USA Staffing, Inc. from August 12 until September 24, 2008. He was assigned to work full time for Advanced Drainage Systems (ADS). He left the assignment on September 24 because of a medical condition that was not work related. He had an infection in a toe and the toe had to be amputated. He was to return to ADS when he recovered from the surgery.

When Mr. McPherrren reoffered his services to ADS, no work was available because they were on a layoff that began in late October. On December 1, he contacted USA Staffing, Inc. about work but none was available.

REASONING AND CONCLUSIONS OF LAW:

Mr. McPherrren left his temporary assignment on or about September 24, 2008 for medical reasons. Since he had to have surgery, the administrative law judge presumes he left work at that time on the advice of his doctor. He notified the employer of the need to be absent and reoffered his services when released. The date on which he reoffered his services to ADS is unknown. He did reoffer his services to USA Staffing, Inc. on December 1. Absent evidence to

the contrary, the administrative law judge assumes Mr. McPherren had a complete release when he reoffered his services on December 1.

Mr. McPherren satisfied the requirements of Iowa Code section 96.5(1)d. He left his work on the advice of a doctor, notified the employer of the need to be absent and returned to reoffer his services once he recovered. Since no work was made available when he reoffered his services, he is entitled to job insurance benefits.

DECISION:

The representative's decision dated March 30, 2009, reference 01, is hereby affirmed. Mr. McPherren was separated from USA Staffing, Inc. on September 24, 2008 for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css