

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF M WHEELER
Claimant

APPEAL NO. 11A-UI-11451-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PALMER COMPANIES INC
PALMER CONSULTING
Employer

OC: 03/06/11
Claimant: Appellant (2)

Section 96.5-1-j – Separation from Temporary Employer
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jeff Wheeler (claimant) appealed a representative's August 23, 2011 decision (reference 03) that concluded he was not eligible to receive unemployment insurance benefits due to his unwillingness to work the number of hours required in his occupation with Palmer Consulting (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 22, 2011. The claimant participated personally. The employer participated by Chanda Wichhart, Recruiting Consultant.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason and whether he is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services from April 14 through July 15, 2011. He did not sign a document indicating that he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. On July 17, 2011, the employer notified the claimant that his assignment had ended. The claimant sought reassignment from the employer on July 18, 2011. The employer thought the claimant wanted to focus on more permanent opportunities. The claimant was willing to work 40 hours per week.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not separated from the employer for any disqualifying reason.

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.

Under the Iowa Code the employer must advise the claimant of the three-day notice requirement and give the claimant a copy of that requirement. The notice requirement cannot be a part of the contract for hire. The employer did not provide the claimant with the proper notice requirements and has, therefore, failed to satisfy the requirements of Iowa Code section 96.5-1-j. Benefits are

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially

unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Claimant has no medical restriction or other limitation on his employability. Accordingly, benefits are allowed.

DECISION:

The representative's August 23, 2011 decision (reference 03) is reversed. The claimant was separated from the employer for good cause attributable to the employer. The claimant is able and available for work. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css