

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTWAN HODGES**

Claimant

**APPEAL NO: 12A-UI-05054-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAMBRIDGE TEMPOSITIONS INC**

Employer

**OC: 03/18/12**

**Claimant: Appellant (1)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(15) – Temporary Employment  
871 IAC 26.14(7) – Late Call

**STATEMENT OF THE CASE:**

Antwan Hodges (claimant) appealed a representative's April 19, 2012 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment with Cambridge Tempositions (employer). Hearing notices were mailed to the parties' last known addresses of record for a telephone hearing to be held at 9:00 a.m. on May 22, 2012. The claimant received the hearing notice and responded by calling the Appeals Section on May 18, 2012. He indicated that he would be available at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, the claimant was not available; therefore, the claimant did not participate in the hearing. The employer responded to the hearing notice and indicated that Elaine Pruitt would participate as the employer's representative. When the administrative law judge contacted the employer for the hearing, Ms. Pruitt agreed that the administrative law judge should make a determination based upon a review of the available information. The administrative law judge considered the record closed at 9:10 a.m. At 9:15 a.m., the claimant called the Appeals Section and requested that the record be reopened. Based on a review of the available information and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Should the hearing record be reopened?

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The claimant received the hearing notice prior to the May 22, 2012 hearing. The instructions inform the parties that they are to be available at the specified time for the hearing and that if they cannot be reached at the time of the hearing at the number they provided, the judge may decide the case on the basis of other available evidence. The claimant was not available at the

scheduled time for the hearing because he had taken his son to school and they were running a little bit late on this date.

The employer is a temporary employment firm. The claimant had signed a statement on May 17, 2011 indicating he understood that he needed to contact the employer within three working days after the ending of an assignment. His final assignment began on October 21, 2011. His last day on the assignment was March 16, 2011. The assignment ended because the employer's business client determined to end it because he did not pass a background check for direct employment with the business client. On March 16 the business client told the claimant he was not to return to work on the assignment, but that if they were going to hire him, they would give him a call. The claimant did not contact the employer to inform the employer of what was happening and that he was no longer working on the assignment. On March 28 the business client informed the employer that it was ending the claimant's assignment. The claimant did not speak with the employer about the ending of the assignment and did not seek new work until March 28.

#### **REASONING AND CONCLUSIONS OF LAW:**

The first issue in this case is whether the claimant's request to reopen the hearing should be granted or denied. After a hearing record has been closed, the administrative law judge may not take evidence from a non-participating party but can only reopen the record and issue a new notice of hearing if the non-participating party has demonstrated good cause for the party's failure to participate. 871 IAC 26.14(7)b. The record shall not be reopened if the administrative law judge does not find good cause for the party's late contact. *Id.* Failing to read or follow the instructions on the notice of hearing are not good cause for reopening the record. 871 IAC 26.14(7)c.

The claimant was not available for the May 22, 2012 hearing until after the record had been closed. Although the claimant intended to participate in the hearing, he failed to read or follow the hearing notice instructions and was not available at the scheduled time and day for the hearing. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. The claimant did not establish good cause to reopen the hearing. Therefore, the claimant's request to reopen the hearing is denied.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j; 871 IAC 24.26(15). The employer had provided the claimant proper notice of this requirement. In this case, the employer also was not independently aware that the business client had ended the assignment until March 28. The claimant was unemployed and seeking unemployment benefits after March 16, but the employer was unaware that the claimant was not working and that he could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. The claimant is deemed to have voluntarily quit his employment when he failed to contact the employer within three working days after the ending of the work assignment and seek a new assignment.

**DECISION:**

The representative's April 19, 2012 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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