

**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**

**JOSEPH D COOKE
2540 S ALICE ST
SIOUX CITY IA 51106**

**ALL IN A DAY LLC
PO BOX 5047
SIOUX CITY IA 51102**

**Appeal Number: 05A-UI-05619-CT
OC: 05/08/05 R: 01
Claimant: Respondent (4)**

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)a – Quit for Other Employment
Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

All In A Day filed an appeal from a representative's decision dated May 25, 2005, reference 06, which held that the protest to Joseph Cooke's separation was not timely filed. After due notice was issued, a hearing was held by telephone on June 20, 2005. The employer participated by Cyd Hall, Office Manager. Mr. Cooke did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Cooke filed a claim for job insurance benefits effective May 8, 2005. Notice of the filing of the claim was mailed to the employer at its address of

record on May 11, 2005. The protest was filed by fax on May 23, 2005, the due date noted on the face of the notice. According to the fax transmittal information on the protest received by Workforce Development, it was transmitted at 17:13 on Monday, May 23, 2005.

Mr. Cooke was employed by All In A Day, a temporary staffing firm, beginning in November of 2004. His last assignment was with Sioux Bee Honey, where he worked for three days ending March 9, 2005. He could have returned to the assignment but chose to quit to accept a long-term assignment through Rudy Salem, another temporary placement firm. Rudy Salem and All In A Day are controlled by the same entities but have separate account numbers with Workforce Development. Mr. Cooke did perform services in the new assignment with Rudy Salem.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether the employer filed a timely protest to Mr. Cooke's claim. The administrative law judge is satisfied that the protest was, in fact, filed on May 23, 2005. Therefore, it was timely filed and the administrative law judge has jurisdiction over the separation issue. See Iowa Code section 96.6(2).

The next issue is whether Mr. Cooke was separated from employment for any disqualifying reason. He left employment with All In A Day in good faith to accept work elsewhere. He had performed services in the new employment prior to filing his claim for job insurance benefits effective May 8, 2005. Based on the foregoing, Mr. Cooke is allowed benefits pursuant to Iowa Code section 96.5(1)a, but such benefits shall not be charged to the employer's account.

DECISION:

The representative's decision dated May 25, 2005, reference 06, is hereby modified. The employer filed a timely protest to Mr. Cooke's claim. Mr. Cooke left the employment in good faith to accept work elsewhere and had performed services in the new employment before filing his claim for benefits. Benefits are allowed, provided he satisfies all other conditions of eligibility, but shall not be charged to the employer's account.

cfc/kjw