

**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**

**RICHARD OCHOA
309 GRANDVIEW AVE
MUSCATINE IA 52761**

**TEAM STAFFING SOLUTIONS INC
116 HARRISON ST
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-10940-CT
OC: 09/05/04 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
Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Team Staffing Solutions, Inc. filed an appeal from a representative's decision dated October 5, 2004, reference 07, which held that no disqualification would be imposed regarding Richard Ochoa's July 30, 2004 separation from employment. After due notice was issued, a hearing was held by telephone on November 4, 2004. The employer participated by Wendy Clang, Claims Specialist. Mr. Ochoa 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. Ochoa began working through Team Staffing Solutions, Inc., a temporary placement firm, on July 13, 2004 and was assigned to work at Menasha Packaging. He became separated from the assignment on July 29 when he failed to report for scheduled work. He was not discharged from Team Staffing Solutions, Inc. at that time but was offered a new assignment on August 2, 2004. Mr. Ochoa filed his claim for job insurance benefits effective September 5, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Ochoa was separated from employment on July 30, 2004 for any disqualifying reason. He was not separated from his employer, Team Staffing Solutions, Inc. at that point in time. Although he had failed to report his absence on his assignment, he was not discharged but offered additional work by Team Staffing Solutions, Inc. Inasmuch as there was no separation at that point, there is no basis upon which to disqualify Mr. Ochoa from benefits as of July 30, 2004. However, he remains disqualified from receiving benefits effective September 5, 2004 based on his August 13, 2004 separation from Team Staffing Solutions, Inc. (See Appeal 04A-UI-10939-CT).

DECISION:

The representative's decision dated October 5, 2004, reference 07, is hereby affirmed. Mr. Ochoa was not separated from employment on July 30, 2004 and, therefore, there is no disqualification to be imposed with respect to that date.

cfc/kjf