

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH BRIGGS
Claimant

APPEAL NO. 11A-UI-08515-WT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC
Employer

**OC: 5/15/11
Claimant: Respondent (1)**

Section 96.5-1-j – Reassignment from Temporary Employment
Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Employer filed an appeal from a fact-finding decision dated June 17, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on August 8, 2011. Claimant participated personally. Employer participated by Alice Smolsky of Talx.

ISSUES:

The issue in this matter is whether claimant sought reassignment from temporary employment in accordance with Iowa law.

The secondary issues are whether claimant quit or was discharged.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds as follows. Claimant began working for the employer in April 2010. He was employed by Axxcess Staffing for a client, Rocktenn as an assembler. Mr. Panosh was the on-site manager for Axxcess Staffing. On May 1, 2011, Irma, a second shift supervisor from Axxcess Staffing told him that there was no work available for him. She told him that Axxcess Staffing would call him when work was available.

REASONING AND CONCLUSIONS OF LAW:

Individuals employed by a temporary employment firm shall be disqualified from benefits if they fail to seek reassignment in accordance with Iowa Code § 96.5(1)(j) (2011). “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.” Id.

In this context, actual knowledge is considered “notice.” In other words, if an employer has actual knowledge of the end of the assignment, then the employee is not required to comply with the provisions of section 96.5(1)(j).

In this matter, the evidence established that claimant was told that no further work was available for him on May 1, 2011. The second shift supervisor, Irma, told him that work was not available for him and that the employer would call him when work was available. Claimant did not quit and he was not discharged. The weight of evidence established that he was temporarily laid off for lack of work. Since the employer had initiated the separation and told the claimant it would call him when work was available, the claimant was not required to comply with ordinary call-in procedures.

DECISION:

The fact-finding decision dated June 17, 2011, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/pjs