

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN REIMERS

Claimant

APPEAL NO. 07A-UI-05499-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC

Employer

**OC: 05/13/07 R: 04
Claimant: Respondent (2)**

Section 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Team Staffing Solutions, Inc. (employer) appealed an unemployment insurance decision dated May 25, 2007, reference 01, which held that Brian Reimers (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 13, 2007. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through Sarah Fiedler, Administrative Assistant in the Human Resources Department. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant disqualified because he failed to contact the temporary employment agency within three working days after the completion of his assignment when notified of this requirement at the time of hire?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The employer is a temporary employment agency; and at the time the claimant was hired, he signed a document, separate from his employment application, advising him of the notification rule. Employees are required to contact the employer within three days of the completion of their last assignment. The claimant has worked intermittently for the employer since December 4, 2000. His last assignment began on March 28, 2007, but he walked off the job on his first day without notice. This was a temp-to-hire position. Once the client notified the employer on that same date, calls were made to the claimant but he did not answer and did not return the calls. The claimant called the employer on March 29, 2007 to ask about another assignment and the employer questioned him as to his actions on the previous day. The employer had additional work available that day but it was with the same client, and the client requested the claimant not return. Before the conversation was completed, the claimant became angry and hung up on the account manager. The employer attempted to reach the claimant on April 14, 2007 but was only able to leave a message. Since the claimant

did not return the call until April 27, 2007, the employer had assumed he quit and no longer wanted to work.

The claimant filed a claim for unemployment insurance benefits effective May 13, 2007 but has not received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. See Iowa Code §§ 96.5-1 and 96.5-2-a. Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer.

Iowa Code § 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.

The greater weight of the evidence indicates that the employer's end-of-assignment notification policy does satisfy the requirements of Iowa Code § 96.5(1)(j). And although the claimant walked off his job, he did call the employer on the following day, thereby satisfying the requirements of Iowa Code § 96.5-1-j. However, he hung up before the call was completed and failed to contact the employer for almost one month after that.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated his intent to quit and acted to carry it out when he failed to contact the employer until April 27, 2007. It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated May 25, 2007, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. There is no overpayment as a result of this decision.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw