

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

DONALD A DRAHOZAL  
PO BOX 612  
CEDAR RAPIDS IA 52406

TEAM STAFFING SOLUTIONS INC  
116 HARRISON ST  
MUSCATINE IA 52761

Appeal Number: 04A-UI-02124-DT  
OC: 01/18/04 R: 03  
Claimant: Respondent (2)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury  
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Team Staffing Solutions, Inc. (employer) appealed a representative's February 20, 2004 decision (reference 03) that concluded Donald A. Drahozal (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 17, 2004. The claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Kristine Heyer appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

#### FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant's first and only assignment began on December 11, 2002. He worked full time as a forklift operator for the employer's business client on a Monday through Friday, 2:00 p.m. to 10:30 p.m. shift. His last day of work was March 19, 2003.

The claimant had called off work on March 17 and March 18. On March 19 he reported for work and informed his supervisor that the reason for his absences was that he had suffered a non-work-related injury the prior weekend. The supervisor was concerned that the claimant might be further injured if he returned to work, so he sent the claimant home with instructions that he should bring back a note from a doctor indicating it was okay for him to do the type of work required for his job. On March 20, the on-site account manager, Ms. Heyer, contacted the claimant and gave him the same instructions. The assignment was not terminated at that time. The claimant indicated he would try to get into a doctor to get a statement. However, the claimant did not provide any doctor's statement and had no further contact with the employer or the business client. As of March 26, the business client and the employer considered the assignment ended by job abandonment by the claimant.

The claimant established a claim for unemployment insurance benefits effective January 18, 2004. However, the claimant has received no unemployment insurance benefits since the separation from employment.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

Iowa Code Section 96.5-1-d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section

96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The claimant did not provide a doctor's excuse that he had been released to return to full work duties, and he abandoned his position with the business client and the employer. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

**DECISION:**

The representative's February 20, 2004 decision (reference 03) is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. As of March 20, 2003, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

ld/kjf