

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT E HARTLEY
Claimant

APPEAL NO. 09A-UI-18033-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

LF STAFFING SERVICES INC
Employer

OC: 10/11/09
Claimant: Appellant (1)

Section 96.5-1-j – Separation From Temporary Employment Services

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 30, 2009, reference 04, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 11, 2010. Employer participated by Tracie Gutknecht, Branch Manager. Claimant failed to respond to the hearing notice and did not participate. The record consists of the testimony of Tracie Gutknecht.

ISSUE:

Whether the claimant's separation from the temporary employment agency on or about July 20, 2009, was for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency. The claimant initially made an application to be considered for temporary assignments on December 12, 2008. He accepted his first assignment on March 16, 2009. The claimant was given an assignment for a second shift janitorial position. The claimant abandoned that job. He informed the employer that he was working a union construction job. He did, however, take spot jobs to fill in when he was not working construction. His last day of work for this employer was on July 20, 2009. He accepted an assignment at the Marriot Hotel in Iowa City. Thereafter he did not contact the employer until October 2009. He was offered an assignment on October 20, 2009, which he refused.

At the time of hire, the claimant signed an availability statement which advised him of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees

who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The evidence in this case established that the claimant elected not to report for a new assignment of work after July 20, 2009, until sometime in October 2009. More than three days elapsed between the last day of work and the next time that the claimant reported for a new assignment. The employer complied with the statutory requirements of Iowa Code section 96.5-1-j. Benefits are denied.

DECISION:

The decision of the representative dated November 30, 2009, reference 04, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/css