

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

ELENA PLAZA
117 W 3RD ST APT 907
MUSCATINE IA 52761

MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES
c/o FRICK UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 04A-UI-12927-LT
OC: 10-24-04 R: 04
Claimant: Appellant (4)

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)

Iowa Code §96.5(1)j – Voluntary Leaving – Temporary Employment
Iowa Code §96.4(3) – Able and Available

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the November 22, 2004, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on December 29, 2004. Claimant did participate through the interpretation of Rosemary Paramo Ricoy. Employer did participate through Jessica Phillips.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time temporary worker via Manpower at Menasha Packaging through

October 22, 2004. Menasha Packaging laid her off and Maria from Manpower notified her of the layoff. No other work was available for her at that time. Claimant checked in again on December 2 after her return from dealing with family issues between November 1 and December 1, 2004.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

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.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability because they notified her of the end of the assignment and no additional work was available between October 22 and October 31, 2004. Benefits are allowed, provided claimant is otherwise eligible for the one-week ending October 30, 2004 (but see the September 21, 2004 separation disqualification in appeal number 04A-UI-12926-LT). However, since claimant was out of the area from November 1 through December 1, 2004, she was unavailable for work during that period. Benefits are denied for the period from November 1 through December 1, 2004 due to claimant's unavailability to work.

DECISION:

The November 22, 2004, reference 03, decision is modified in favor of the appellant. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by statute. Benefits are allowed, provided claimant is otherwise eligible for the one-week ending October 30, 2004 (but see the September 21, 2004 separation disqualification in appeal number 04A-UI-12926-LT).

Benefits are denied for the period from November 1 through December 1, 2004 due to claimant's unavailability to work.

dml/pjs