

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

MARCOS GONZALES
623 - 1ST ST
SILVIS IL 61282

L A LEASING INC
SEDONA STAFFING
612 VALLEY DR
MOLINE IL 61265

Appeal Number: 04A-UI-06277-SWT
OC 01/04/04 R 04
Claimant: Respondent (1)

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)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 26, 2004, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on July 8, 2004. The parties were properly notified about the hearing. The claimant provided a telephone number to call for the hearing but was not available at that number at 11:30 a.m., which was the time of the hearing. He called in at 1:36 p.m. but was not available when the administrative law judge returned the call. His reasons for being unavailable are unknown. Colleen McGuity participated in the hearing on behalf of the employer with a witness, Tori Smart.

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer from December 17, 1998, to April 21,

2004. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer one half hour before the start of their shift if they were not able to work as scheduled.

The claimant was absent from work without notice to the employer on April 22, 2004. As a result, the account manager removed the claimant from the assignment he was working on and issued a warning to him on April 23, 2004, regarding his failure to properly notify the employer about his absence. The claimant was not offered work at that time. The claimant was not discharged from his job and his absence on April 22, was not with the intention to quit his employment. The account manager told the claimant that he would need to call the employer to get on their "availability list" for new assignments. The claimant did not call the employer afterward to get on the availability list. Despite this, the employer contacted the claimant on June 8, 2004, about another assignment.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a. Iowa Code Section 96.5-1-j provides that individuals employed by a temporary agency must notify their employer of the completion of a work assignment and seek a new assignment within three days after the completion of the assignment or they will be deemed to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

In this case, while the employer removed the claimant from an assignment, the employer admits that it did not discharge him. The claimant was absent from work but did not intend to quit his job when he was absent. The claimant is not disqualified under Iowa Code Section 96.5-1-j because the purpose of the law is to disqualify individuals who fail to notify their employer about the completion of an assignment and fail to seek another assignment. In this case, the employer notified the claimant that the assignment was over and the claimant, therefore, had no legal obligation to notify the employer about the completion of the assignment. The employer did not offer the claimant another assignment until June 8, 2004.

The issue of whether the claimant is disqualified based on his failure to accept work on June 8, 2004, has been decided in a decision issued on June 22, 2004.

DECISION:

The unemployment insurance decision dated May 26, 2004, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/pjs