

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

SUNSHINE M ALLEN
APT 4
2200 SE HART AVE
DES MOINES IA 50320-2741

WESTAFF USA INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-04989-DWT
OC: 03/26/06 R: 02
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 96.5-1-j – Temporary Employment

STATEMENT OF THE CASE:

Westaff USA, Inc. (employer) appealed a representative's April 27, 2006 decision (reference 03) that concluded Sunshine M. Allen (claimant) was qualified to receive benefits, and the employer's account could be charged because the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 24, 2006. The claimant participated in the hearing.

After the hearing had been closed and the claimant had been excused, the employer contacted the Appeals Section and made a request to reopen the hearing. Based on the employer's request to reopen the hearing, the administrative record, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant registered to work with the employer on October 29, 2005. When the claimant registered to work, she informed the employer she was available to work full time until January 7, 2006. As of January 7, 2006, the claimant was only available to work part time.

The claimant worked at a full-time assignment from November 7, 2005, through January 2006. The claimant then worked at a part-time assignment from January 7 through March 4, 2006. The claimant finished her job assignment on March 4, 2006. Weststaff personnel informed the claimant she had completed this work assignment. The claimant asked for another assignment. The employer did not assign the claimant to another job.

The claimant established a claim for unemployment insurance benefits during the week of March 26, 2006. The claimant received Department Approved Training to attend school.

The employer contacted the Appeals Section after the hearing had been closed and the claimant had been excused. Neither the employer's witness nor the employer's third party representative, TALX, contacted the Appeals Section prior to the hearing to provide the phone number and the name of the person to contact for the hearing. Each party assumed the other party was going to contact the Appeals Section and neither did. When the employer's witness did not receive a call to participate in the hearing, he contacted his TALX representative and learned that no one had called in for the employer. The employer's witness then contacted the Appeals Section and requested that the hearing be reopened.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c). The employer did not timely respond to the hearing notice because the employer and its third party representative, TALX, did not clearly communicate with one another. Both assumed or thought the other entity would contact the Appeals Section prior to the hearing and provide the phone number at which the employer's witness could be contacted. It is unfortunate that the employer and TALX did not clearly communicate with one another. However, this is an issue that must be resolved between the employer and TALX. By the time the employer contacted the Appeals Section the claimant had been excused and the hearing had been closed. The employer's failure to follow the hearing instructions does not establish good cause. Therefore, the employer's request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. A claimant who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if she does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. Iowa Code § 96.5-1-j. In this case the employer informed the claimant her job assignment had ended. When the claimant asked for another job assignment, the employer did not assign the claimant another job. Based on the administrative record, the claimant followed the requirements set forth in Iowa Code § 96.5-1-j. Therefore, as of March 26, 2006, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The employer's request to reopen the hearing is denied. The representative's April 27, 2006 decision (reference 03) is affirmed. The claimant became unemployed after she finished a job assignment and the employer did not have another job to assign her. The claimant's employment separation does not disqualify the claimant from receiving unemployment insurance benefits. As of March 26, 2006, the claimant is qualified to receive unemployment insurance benefits. During the claimant's current benefit year, the employer's account will not be charged.

dlw/kkf