

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS M HERNANDEZ
Claimant

APPEAL NO. 08A-UI-01960-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 01/20/08 R: 02
Claimant: Respondent (1)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, DES Staffing Services, Inc. (DES), filed an appeal from a decision dated February 26, 2008, reference 04. The decision allowed benefits to the claimant, Carlos Hernandez. After due notice was issued, a hearing was held by telephone conference call on March 13, 2008. The claimant participated on his own behalf and Ike Rocha acted as interpreter. The employer participated by Human Resources Manager Amy MacGregor.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Carlos Hernandez began working for DES on April 8, 2002. He was assigned to Millard Refrigeration in December 2006, and when the assignment ended on December 6, 2006, he did not contact DES to request another assignment. The employer asserted he had signed a document on May 1, 2006, notifying him of the requirement to contact the temporary agency within three working days of the end of any assignment, but that document was not produced for the hearing.

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.

The employer had failed to produce any document verifying the claimant was informed, in writing, of the requirement to notify the agency within three working days of the end of any assignment. Without such documentation, the employer has failed to support its contention the claimant was notified. Disqualification may not be imposed.

DECISION:

The representative's decision of February 26, 2008, reference 04, is affirmed. Carlos Hernandez is not disqualified from receiving unemployment benefits as a result of his separation from employment on December 6, 2006. Benefits are allowed, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw