

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD SALEM
Claimant

APPEAL NO: 11A-UI-13865-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 07/24/11
Claimant: Appellant (1)

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Donald Salem (claimant) appealed an unemployment insurance decision dated October 18, 2011, reference 02, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Aventure Staffing & Professional (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 18, 2011. The claimant participated in the hearing. The employer participated through Kayla Neuhalfen, human resources representative, and Christine Shinall, branch manager. Employer's Exhibits One and Two were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment to request additional work, when and if notified of this requirement at the time of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a general laborer on February 7, 2011 through September 7, 2011. At the time of hire, he signed an availability statement that 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. The claimant was given a copy of the availability statement.

The claimant was assigned to work at Executive Lawns and Pools, but he was unable to physically perform the work. Executive Lawns and Pools asked that the claimant be removed from his assignment on September 7, 2011 and advised the claimant he was no longer needed. The claimant picked up his paycheck on September 9, 2011 and he did not request additional work that day because he was working for another employer.

As the claimant was leaving the office, he said, "If you have anything, let me know." Branch Manager Christine Shinall advised the claimant that he needed to call in if he wanted to work. She

testified that the claimant had never called in looking for work but the employer had called him when they had an opening they were trying to fill. The claimant worked another job, so he was only able to work certain times.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

Both the claimant and the employer have an affirmative obligation that will affect whether or not unemployment benefits will be granted. The employer has the obligation to draft a policy that complies with the requirements of the statute. The employer must advise the employee in writing of the three-day notification rule. The employer must also notify the employee that he may be disqualified from receiving unemployment insurance benefits if he fails to contact the employer and request additional work. Iowa Code § 96.5-1-j.

The claimant has an obligation to actually make contact with the employer to let the employer know not only that the assignment has ended, but also to indicate that he is available for work and desires a further assignment. Even if the employer is aware the assignment has ended, that does not relieve the employee from indicating he is available to work and from requesting additional work.

In the case herein, the evidence indicates demonstrates the claimant did contact the employer within the three-day requirement but he only went to retrieve his paycheck. He did not request additional work because he was not available to work that day. Consequently, the claimant did not satisfy the requirements of Iowa Code § 96.5-1-j and is disqualified from receiving unemployment insurance benefits as of September 10, 2011.

DECISION:

The unemployment insurance decision dated October 18, 2011, reference 02, is affirmed. The claimant is considered to have voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw