

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHANIE A ASHLINE**  
Claimant

**APPEAL NO: 17A-UI-10329-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 09/03/17**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant, filed a timely appeal from a representative's decision dated September 29, 2017, reference 01, was denied unemployment insurance benefits finding that the claimant voluntarily left employment on May 24, 2017 without good cause attributable to the employer. After due notice was provided, a telephone conference hearing was held on October 25, 2017. Claimant participated. The employer participated by Ms. Colleen McGuinty, Unemployment Insurance Benefits Administrator and Ms. Nikki Keifer, Branch Owner.

**ISSUE:**

Whether the claimant separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds that: Stephanie Ashline began employment with L A Leasing Inc. on November 26, 2012. The claimant was most recently assigned to work at TM Inc. beginning February 17, 2017. Ms. Ashline worked as a full-time production planner and was paid by \$15.50 per hour. The claimant last worked on Tuesday, May 23, 2017.

On the morning of Wednesday, May 24, 2017, the claimant was involved in a traffic accident while in route to work. The claimant provided notice to the temporary employment service and the client employer via text message that she would be reporting for work late that day. The temporary employment service employer expected the claimant would report late to the client location, or in the alternative provide further notice if she were not going to report that day.

Ms. Ashline, in turn, concluded based on a statement made to her by Ms. Keifer that she had been removed from the assignment that morning therefore had no obligation to further notify either LA Leasing, Inc. or the client because the assignment had been ended because of her attendance.

Ms. Ashline had no further contact with either LA Leasing, Inc. or the client that day. At approximately 8:00 p.m. that evening claimant received a message from Ms. Keifer instructing her to turn in her company equipment and to retrieve her personal belongings the following day. The claimant acknowledged the communication. Ms. Ashline had failed to report to the client location, and did not provide any notification on one previous occasion and the client employer elected on the morning of May 25, 2017 not to continue her work assignment. The claimant had not been warned or counseled by either the client employer or the temporary employment service, and was not aware her job was in jeopardy.

The following day, May 25, 2017, Ms. Ashline went to the employer's branch location as directed to turn in company property and retrieve her personal belongings. While at the branch location, the claimant spoke with a company representative. As she turned in her equipment, Ms. Ashline made references to her desire to become re-employed, but the company's representative stated they had no job openings but suggested she update her resume.

The employer does not dispute the fact that Ms. Ashline reported to the company offices in person to turn in her company equipment on May 25, 2017, however it is the employee's position that company records do not reflect that the claimant established her availability for more work or requested more job assignments at that time. It is the company's belief that the claimant did not contact the temporary employment service again until July 25, 2017, when she then established her availability for more assignments.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith

errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The testimony in this case is highly disputed. Neither the employer nor the claimant has offered into evidence copies of text messages, telephone records, or any other documentation supporting their respective positions in this matter. The administrative law judge questioned the parties at length and concludes that the weight of evidence is established in favor of the claimant. Ms. Ashline testified with specificity regarding the events and times that the events took place on May 24 and May 25, 2017. The claimant's testimony is credible and the administrative law judge accords more weight to the claimant's testimony in this matter.

The claimant was removed from her most recent temporary assignment with LA Leasing, Inc. during the morning of May 24, 2017 after claimant left a message that she would be late in reporting to work because she was involved in an automobile accident. The claimant had given timely notice to the client employer that she could not report on time due to factors that were beyond her control.

Under these circumstances, the claimant's failure to report to work that morning did not constitute disqualifying job misconduct.

After being removed unexpectedly from the long-term assignment, the claimant needed to be reemployed and made a general inquiry about the availability of other positions, as she turned in her company equipment to a LA Leasing representative on the morning of May 25, 2017. Ms. Ashline provided specific testimony about the statements that she made inquiring about other work. When she was hired by LA Leasing, Inc., Ms. Ashline agreed to contact the temporary company within three business days after the completion of each job assignment to establish her availability for more work assignments. Under the terms of the agreement, the claimant's failure to do so would be considered to be a voluntary quit and potentially affect claimant's unemployment insurance benefits.

The question then becomes whether Ms. Ashline's contact with LA Leasing, Inc. on May 25, 2017 was sufficient to provide the temporary employer notice of her availability for more job assignments? It was.

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. Though the client, TM Inc., ended Ms. Ashline's work assignment that day, her relationship with LA Leasing, Inc. continued. LA Leasing, Inc. was aware of Ms. Ashline's availability for more work because the company itself had notified the claimant that her assignment had ended early and because Ms. Ashline had inquired about other positions with a company representative as she turned in her company equipment on May 25, 2017. For these reasons, the administrative law judge concludes that the claimant had adequate contact with the temporary service employer about her availability as required by the statute. The claimant was separated due to lack of work under non-disqualifying conditions. Accordingly, benefits are allowed provided the claimant is otherwise eligible.

Claimant was separated from employment on May 25, 2017 due to lack of work under non-disqualifying conditions. Benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The representative's decision dated September 29, 2017, reference 01, is reversed. The claimant was separated due to lack of work under non-disqualifying conditions. The claimant is eligible for unemployment insurance benefits provided she meets all other eligibility requirements of Iowa law.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn