

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE WUCHTER
Claimant

APPEAL NO: 14A-UI-11916-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 10/19/14
Claimant: Appellant (1)

Iowa Code Section 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 13, 2014, reference 05, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 9, 2014. The claimant participated in the hearing. Colleen McGuinty, Unemployment Insurance Benefits Administrator; Carol Lawson, Account Manager; and Julie Thill, Account Manager; participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time banquet server and dishwasher for L A Leasing from June 6, 2010 to August 31, 2014. The claimant was last assigned at The Grand River Center from August 30, 2014, to August 31, 2014. After the assignment ended, the chef at The Grand River Center told the employer he did not want the claimant to return to further assignments with it.

The claimant did not contact the employer for further work by September 4, 2014, because September 1, 2014, was Labor Day, within three working days as required by the employer's written policy (Employer's Exhibit One). The employer called the claimant September 4, 2014, and notified the claimant the client asked that she not return. The claimant was upset and wanted to know why she was not allowed to return but the employer could not tell her. At 7:00 p.m. on September 4, 2014, the employer left a voice mail message for the claimant regarding work at another assignment but the claimant did not return the call. The employer called the claimant again September 6, 2014, for an assignment September 7, 2014, but the claimant did not return that call either. On September 11, 2014, the employer offered the claimant another assignment at a different location and the claimant refused the offer because

she was still upset about being asked not to return to The Grand River Center and unhappy with the employer for not telling her why. When the employer again refused to tell the claimant the reason The Grand River Center chef did not want her to return the claimant stated she did not want further assignments from the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The claimant did not contact the employer prior to September 4, 2014, the third business day following the completion of her assignment. When the employer contacted the claimant and stated The Grand River Center did not want her to return to work there the claimant was upset and subsequently refused to return the employer's phone calls the evening of September 4 and September 6, 2014. She refused the employer's offer of work September 11, 2014, because she was still upset about being told she was not allowed to return to The Grand River Center.

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 each temporary assignment so they may be reassigned and continue working. In this case, the claimant gave the employer no notice of her availability and, therefore, is considered to have quit the employment, even though the claimant may have returned to work for the temporary agency at some later date. Therefore, benefits must be denied.

DECISION:

The November 13, 2014, reference 05, decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs