

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VONDA K BLACKFORD
Claimant

APPEAL NO. 11A-UI-06286-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
LABOR WORLD OF IOWA
Employer

OC: 04/03/11
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 6, 2011, reference 02, which denied benefits finding that the claimant voluntarily left employment without good cause. After due notice, a telephone hearing was held on June 8, 2011. The claimant participated personally. The employer participated by Ms. Michelle Rosa, Branch Manager.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Vonda Blackford began employment with USA Staffing Inc. on September 15, 2010 and was assigned to work as a general laborer at Aeron Manufacturing Company until October 5, 2010 when she was laid off due to lack of work. Ms. Blackford was paid by the hour.

Upon being informed that she was being laid off at the client location, Aeron Manufacturing, Ms. Blackford contacted the temporary employment service that day to verify that she was being laid off and at that time inquired about other work. Ms. Blackford also visited the temporary employment service personally the following day to inquire as to why she had been laid off and to secure her return to the assignment at Aeron Manufacturing or at another client employer location for additional assignments that were available for the claimant at that time.

Subsequently on October 7, the USA Staffing Inc. offered Ms. Blackford the opportunity to return to an assignment at Aeron Manufacturing. The claimant was unable to accept the offer because it was for second shift work. The claimant was unable to accept second shift work because she did not have babysitting arrangements for evening hours. Ms. Blackford had specified that she needed daytime work when she initially made application for employment through USA Staffing Inc.

At the time that the claimant accepted employment with USA Staffing Inc. she signed an agreement to contact the temporary employer within three working days after the completion of any temporary work assignment to inform the temporary employer of her availability.

It is the employer's position that the company records do not reflect that Ms. Blackford called the company on October 5, 2010 or that she reported in person the following day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant left the employment with good cause attributable to the employer.

871 IAC 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.

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 evidence in the record is disputed as to whether the claimant contacted the temporary employer after being informed that she was being laid off from her work assignment at Aeron Manufacturing. Ms. Blackford testified with specificity that she contacted the temporary employer on October 5, 2010 by telephone and that she personally visited the temporary employer's facility the following day, October 6, 2010 to determine why she had been laid off and to emphasize her need for re-employment. In contrast, it is the employer's position that their records do not show that the claimant contacted the company. The administrative law judge finds the claimant's testimony to be credible and finds that the testimony is not inherently improbable. Based upon the specificity of the claimant's testimony, the administrative law judge concludes that the claimant did satisfy the contact requirement within three working days.

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 a temporary assignment. In this case the employer had notice of the claimant's availability because of contact by the claimant at the end of the assignment. Benefits are allowed providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated May 6, 2011, reference 02, is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by the statute. Benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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