

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARLESHA D NELSON
Claimant

APPEAL NO. 08O-UI-04994-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

**OC: 02-24-08 R: 02
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 3, 2008, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on June 10, 2008. The claimant did participate. The employer did participate through Amy MacGregor, Human Resources Manager. Employer's Exhibit One was received.

ISSUE:

Did the claimant seek reassignment from the temporary employer within three days of the end of the assignment?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at ACME Printing as a production worker, full-time, beginning November 7, 2007, through November 7, 2007, when she was discharged. The claimant was discharged by Steve at ACME Printing for reading a book at her workstation when she should have been working. On November 7 Steve told the claimant she was being let go from the ACME assignment. The claimant did not contact DES Staffing to let them know that she had been discharged from an assignment and that she was available for an additional assignment. The employer learned on the afternoon of November 8 that the claimant had been discharged from ACME Printing, when ACME called them to tell them that the claimant had been dismissed from the assignment. After the claimant's assignment at ACME Printing ended, the claimant failed to report to the employer within three working days as required by written policy. The claimant had been given a separate document that notified her of her responsibility to contact DES Staffing within three days of the end of her assignment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left 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.

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 § 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 § 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 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 claimant may have returned to work for the temporary agency at some later date. Benefits are denied.

DECISION:

The April 3, 2008, reference 02, decision is reversed. 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. No weekly benefits were paid on this claim, thus there is no overpayment for this claim.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw