

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SOACKSONE NOUGHAVYKOUN
Claimant

APPEAL NO. 12A-UI-02851-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 11/06/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.5-1-j – Separation from Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from a decision of a representative dated March 15, 2012, reference 02, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 5, 2012. Claimant participated. The employer participated by Kayla Neuhalfen, human resources representative, and Cheryl Lee, branch manager--Spencer. The record consists of the testimony of Soacksone Nouthavykoun; the testimony of Kayla Neuhalfen; the testimony of Cheryl Lee; and Employer's Exhibits 1-4.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a staffing agency. The claimant accepted her first assignment at Jack Links, on November 16, 2011. When the claimant was hired she acknowledged receipt of a handbook and signed a form that stated that a failure to call within three business days of the end of the assignment would constitute a voluntary quit.

On November 27, 2011, the claimant and her husband, who was also working at Jack Links, got into a fight at work. The claimant's husband was actually throwing product. The assignment was ended at the request of Jack Links. Cheryl Lee called the claimant at home and asked her what happened. She also informed the claimant that her assignment had ended at the request of Jack Links. The claimant asked if she could go somewhere else at Jack Links and Ms. Lee said no. The next contact the claimant had with the employer was when she called for work on February 10, 2012.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 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.

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The greater weight of the credible evidence in this case established that the claimant did not request another assignment from the employer within three business days of the end of her assignment at Jack Links on January 27, 2012. Ms. Lee testified that she spoke to the claimant about the end of the assignment and that the only thing Ms. Lee asked about was a different position at Jack Links, which Ms. Lee said was not possible. The next contact with the employer did not take place until February 10, 2012, which is more than three days after the end of the assignment.

The administrative law judge recognizes that the claimant testified that she asked for another assignment when she spoke to Ms. Lee. Ms. Lee does not confirm that in her testimony. Ms. Lee's testimony is accepted over the testimony of the claimant. The claimant's testimony was characterized by an inability to specifically remember crucial information such as dates and her answers varied even when she was asked the same question. She admitted that her memory was bad. The administrative law judge concludes that the claimant did not request another assignment until February 10, 2012. Accordingly, she is deemed to have voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated March 15, 2012, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vl/pjs