

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRENDA L SAHR
Claimant

APPEAL NO. 17A-UI-07063-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STAFFING INC
Employer

OC: 06/18/17
Claimant: Appellant (4R)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Brenda Sahr filed a timely appeal from the July 7, 2017, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the claims deputy's conclusion that Ms. Sahr voluntarily quit on May 9, 2017 without good cause attributable to the employer by failing to contact the employer within three working days of completion of a temporary work assignment after being notified in writing of her obligation to do so. After due notice was issued, a hearing was held on July 31, 2017. Ms. Sahr participated. Frank Tursi represented the employer. Exhibit 1 was received into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Iowa Staffing, Inc. is a temporary employment agency. Brenda Sahr commenced her employment relationship with Iowa Staffing in October 2016. At the time of hire, Ms. Sahr signed and received a copy of a Check In Procedure policy that obligated her to contact the employer within three working days of completing an assignment or be deemed to have voluntarily quit and risk disqualification for unemployment insurance benefits.

On May 4, 2017, Ms. Sahr completed part-time temporary clerical work assignment at Innovative Lighting in Ankeny. The assignment work hours were 8:00 a.m. to 4:30 p.m., Monday through Thursday. The assignment offered 32 hours per week at \$13.50 per hour. Ms. Sahr has resided in Ankeny at all relevant times.

A couple days before Ms. Sahr completed the assignment at Innovative Lighting, her supervisor in the assignment, Randy Linn, Sales Manager, notified her that the assignment would end on May 4, 2017. On May 4, 2017, Frank Tursi, President of Iowa Staffing, Inc. contacted Ms. Sahr in reference to the assignment coming to an end and offered Ms. Sahr a full-time, temporary assignment with Innovative Light in Roland, Iowa. The duties would be similar to the duties in the Ankeny assignment. Ms. Sahr declined the assignment due to the commuting distance from Ankeny to Roland. That distance is approximately 35 miles. Ms. Sahr did not inquire about another assignment at that time. The parties did not have further contact until June 26, 2017.

REASONING AND CONCLUSIONS OF LAW:

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.

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 employer's Check In Procedure complies with Iowa Code Section 96.5(1)(j). Ms. Sahr completed her assignment no May 4, 2017 and was in contact with the employer that same day to discuss another prospective assignment. Ms. Sahr had good cause to decline the assignment in Roland due to the substantial commuting distance. The contact was initiated by the employer, not Ms. Sahr. Ms. Sahr did not inquire about an additional assignment. Ms. Sahr made no further contact with the employer until June 26, 2017. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Sahr's May 4, 2017 separation from the temporary employment agency was without good cause attributable to the temporary employment agency. Ms. Sahr is disqualified for benefits based on base period wage credits from this employment until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. This employer's account will not be charged for benefits.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27.

Ms. Sahr remains eligible for benefits based on base period wages and credits from employers other than Iowa Staffing, Inc., provided she meets all other eligibility requirements. The matter will be remanded to the Benefits Bureau for redetermination of Ms. Sahr's benefit eligibility.

DECISION:

The July 7, 2017, reference 01, decision is modified as follows. The claimant's May 4, 2017 separation from the part-time, temporary employment agency was without good cause attributable to the employer. The claimant is disqualified for benefits based on base period wage credits from this employment until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. This employer's account will not be charged for benefits. The claimant remains eligible for benefits based on base period wages and credits from employers other than Iowa Staffing, Inc., provided she meets all other eligibility requirements. The matter will be remanded to the Benefits Bureau for redetermination of the benefit eligibility for reduced benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs