

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT J STEPHENSON
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 20A-UI-04166-BH-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 15, 2020, (reference 01) unemployment insurance decision that denied benefits. The agency gave the parties proper notice of the hearing. The undersigned presided over a telephone hearing which was held on June 2, 2020. Claimant participated personally. The employer participated through Sarah Fiedler.

ISSUES:

Did Claimant voluntarily quit the employment with good cause attributable to employer?
Did Claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

Was Claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds the following facts.

The employer is a temporary staffing firm. The employer places individuals in temporary work assignments with third-party businesses. Typically, after an individual's assignment ends, the individual must contact the employer to get another one. Individuals wanting a new temporary assignment may contact the employer by phone, text, email, in person, or by logging into the individual's online account for the employer.

Claimant was a temporary employee of the employer. He signed a document on or about July 23, 2019, in which he acknowledged that if he did not contact the employer to request a new assignment within three business days of an assignment ending, the employer would deem him to have voluntarily quit his employment and the employer would not contact him with any more assignments.

The employer assigned him to work at Sligan on July 24, 2019. He worked as a packer. Sligan asked the employer to end Claimant's placement on February 13, 2020. The employer ended Claimant's assignment and notified him the following day.

Claimant looked for another job to help pay the bills. He applied for and got hired to fill a job in Keokuk on or about February 14, 2020. Claimant worked there until the employer suspended operations because of the COVID-19 pandemic.

Claimant did not contact the employer until March 20, 2020. He spoke to administrative staff. Claimant did not request a placement during this interaction. Claimant's most recent employer recalled him shortly before the appeal hearing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was without good cause attributable to the employer. Benefits are denied.

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. (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 Administrative Code rule 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 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. The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an assignment and who seeks reassignment."

In this case, Claimant did not seek reassignment by the employer because he got another job. Claimant therefore did not comply with Iowa Code section 96.5(1)(j). He voluntarily quit employment without good cause attributable to the employer. The separation is disqualifying. Benefits are denied.

DECISION:

The May 15, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant's separation was without good cause attributable to the employer under state law. Regular unemployment insurance benefits under state law shall be withheld in regards to this employer until such time as claimant is deemed eligible.

Even though Claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. Claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

A handwritten signature in black ink, appearing to read "Ben Humphrey", with a long horizontal line extending to the right from the end of the signature.

Ben Humphrey
Administrative Law Judge

June 18, 2020
Decision Dated and Mailed

bh/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information