

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NETTIE M BURGESS

Claimant

LF STAFFING SERVICES INC

Employer

APPEAL 15A-UI-13236-EC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/01/15

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Code § 96.5(1)j – Temporary Staffing Firm Voluntary Quit

Iowa Admin. Code r. 871-24.26(15) - Temporary Staffing Firm Voluntary Quit

Iowa Admin. Code r. 871-26.14(7) – Hearing Participation

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the November 24, 2015, (reference 02) unemployment insurance decision that denied benefits based upon a voluntary quit from this temporary staffing firm. The parties were properly notified of the hearing. A telephone hearing was held on December 17, 2015. The claimant, Nettie Burgess, participated in the first minute of the telephone hearing. Then, she disconnected from the conference call. This ALJ called the claimant back, five times, to try to reconnect her to the call to participate in the hearing. Each time, Nettie Burgess did not answer the call. This ALJ left two messages on the claimant's voice mail, asking her to be available for another call. The employer, LF Staffing Services Inc., participated through James Clyde, Branch Operations Manager.

ISSUES:

Was the separation from employment a voluntary quit with or without good cause attributable to the employer?

Did the claimant make a timely request for another job assignment?

FINDINGS OF FACT:

The relevant evidence is undisputed. Having reviewed all of the available evidence presented, the administrative law judge finds: Claimant was employed on a day-to-day basis as a general laborer for a temporary employment firm from October 16, 2015, until this employment ended on October 29, 2015. She worked as a dishwasher and in a warehouse. She was also assigned to work as a server at banquets.

The claimant signed the temporary staffing firm's policy, agreeing that she would notify the employer within three days after an assignment ended to tell the temporary staffing firm that she was available for another assignment.

On October 29, 2015, the claimant was assigned to work as a dishwasher for an eight-hour shift. She walked off the job after two and one-half hours. The claimant was the only person scheduled to perform these duties for this shift.

The claimant did not contact the employer within three days of October 29, 2015. She did not request another assignment after October 29, 2015.

The employer contacted the claimant to work as a server at a banquet on November 11, 2015. The claimant was a no-call/no-show for that assignment. She drove another person to the event, and that person came in and worked as a banquet server, but the claimant did not come inside to work as expected.

REASONING AND CONCLUSIONS OF LAW:

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

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 employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

In this case, the claimant did not notify the employer of her availability or request another assignment. Therefore, she is considered to have quit the employment. Furthermore, she failed to report to an additional temporary assignment. Benefits are denied.

DECISION:

The November 24, 2015, (reference 02) unemployment insurance decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as she works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Emily Gould Chafa
Administrative Law Judge

Decision Dated and Mailed

ec/css