

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LOLA A TWAITES
Claimant

APPEAL NO. 15A-UI-04880-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 03/02/14
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 12, 2015, reference 05, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant's January 14, 2015 separation was for good cause attributable to the employer. After due notice was issued, a hearing was held on June 3, 2015. Claimant Lola Twaites participated. Colleen McGuinty represented the employer and presented additional testimony through Joe Vermeulen. Exhibit One was received into evidence. Exhibits D-1, D-2 and D-3 were received into evidence. During the hearing, the administrative law judge erroneously referred to the fact-finding materials as Exhibit D-2. The administrative law judge had previously marked the database readout concerning the March 22, 2015 original claim as Exhibit D-2. The administrative law judge has relabeled the fact-finding materials as Exhibit D-3.

ISSUE:

Whether the claimant's January 14, 2015 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: L A Leasing/Sedona Staffing is a temporary employment agency. On January 13, 2015, claimant, Lola Twaites, performed work for the employer in two temporary work assignments. From 6:15 a.m. to 3:50 p.m., the claimant performed work at Nordstrom's in an ongoing assignment. From 5:00 p.m. to 9:55 a.m., the claimant performed usher work at Dubuque Fighting Saints in a one-day assignment. On the morning of January 14, 2015, the claimant reported again for her assignment at Nordstrom's. When the claimant signed in at Nordstrom's that day, the sign-in book included space for the claimant to indicate whether she would be available for work during the next five work days. The claimant marked to indicate that she was available for work on each of those days. Those days were January 15, 16, 19, 20 and 21, 2015. On the afternoon of January 14 or the morning of January 15, 2015, the claimant telephoned the Dubuque office of L A Leasing/Sedona Staffing to notify that office that she was available for work for the rest of the week and for the following week. On January 16, 2015, the employer called to confirm that

the claimant would be available for work at Nordstrom's during the following week and the claimant confirmed she would be available. On Monday, January 19, 2015, the claimant again contacted the employer's Dubuque office to indicate she was available for work that week.

Earlier in the employment, the employer had Ms. Twaites sign an Availability Statement that obligated her to contact the employer within three working days of the end of an assignment to request a new assignment or be deemed a voluntary quit and risk consequences to her unemployment insurance benefit eligibility. Ms. Twaites most recently signed such a document in 2011 and received a copy of the document at that time.

REASONING AND CONCLUSIONS OF LAW:

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.

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 Availability assignment complied with the requirements of the statute. The employer had the claimant sign the document and provided the claimant with a copy of the document she had signed. Accordingly, the claimant was indeed obligated to contact the employer within three working days of the end of an assignment to request a new one. The claimant completed an assignment with the Dubuque Fighting Saints on January 13, 2015. She reported for another assignment the next day at Nordstrom. The claimant promptly notified both Nordstrom and L A Leasing/Sedona Staffing that she was available for additional work. The claimant's separation from the January 13, 2015 assignment was for good cause attributable to the employer. The claimant's separation from the assignment at Nordstrom on or about January 14, 2015 was also for good cause attributable to the employer. The claimant is eligible for benefits provided she meets all other eligibility requirements. The employer's account may be charged.

DECISION:

The February 12, 2015, reference 05, decision is affirmed. The claimant's separation(s) from the temporary employment agency on January 13, 2015 and January 14, 2015 were for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs