

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DERRICK D JONES
Claimant

APPEAL NO: 17A-UI-09665-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALL IN A DAY LLC
Employer

OC: 08/20/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leave
Iowa Code § 96.5(1)j – Timeliness of Request of Job Assignment

STATEMENT OF THE CASE:

The claimant, filed a timely appeal from a representative's decision dated September 11, 2017, reference 04, was denied unemployment insurance benefits finding that the claimant had voluntarily left work when he failed to notify the temporary employment service of his availability for more assignments within three days after the completion of his most recent work assignment. After due notice was provided, a telephone conference hearing was held on October 5, 2017. Claimant participated. Employer participated by Ms. Toni Holquin, Human Resource Representative. Employer's Exhibits 1, 2, 3, and 4 were admitted into the hearing record.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: Derrick Jones was most recently employed by All in a Day LLC, a temporary employment agency, beginning December 2, 2016. The claimant usually took assignments of short duration. On December 9, 2016, Mr. Jones was assigned to work as a general laborer at the Tyson Event Center in Sioux City, Iowa and was paid by the hour. Mr. Jones had accepted a morning assignment through All in a Day LLC for that date but he over-slept and failed to report to work. Later on December 9, 2016, Mr. Jones went to the All in a Day LLC offices to explain his failure to report for work that day. Mr. Jones requested additional evening assignments. The claimant was assigned by the temporary employment agency to work an evening shift at the Tyson Event Center for December 10, 2016. Mr. Jones completed the assignment on December 10, 2016 but had no further contact with the temporary employment agency until December 16, 2016 when he went to the office to obtain his most recent paycheck.

On December 1, 2016, Mr. Jones signed an agreement with the temporary employment agency. The agreement contained the requirement that he contact the temporary employment agency

within three business days after the completion of each employment assignment to establish his availability for additional work. The agreement further informed Mr. Jones that failure to contact the temporary agency would be deemed a voluntary quit and would affect his unemployment insurance benefits.

The temporary agency had no further contact from Mr. Jones within the next three working days after he had completed his December 10, 2016 assignment. The agency contacted Mr. Jones on December 14, 2016, but the claimant was not available to accept work assignments.

It is the claimant's position that he had gone to the agencies offices on December 9, 2016 to request additional work, and that because the contact on December 9, 2016 was "within three working days" of his last assignment on December 10, 2016, he had complied with his responsibility to contact the temporary service.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

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 re-assigned and continue working. In this case, the claimant's last work assignment took place on December 10, 2016 and the claimant gave the temporary employment agency no notice of his availability thereafter and is therefore considered to have quit the employment. Because of his failure to contact the temporary employment agency within three days after each work assignment ended. Accordingly, benefits are denied.

DECISION:

The representative's decision dated September 11, 2017, reference 04 is affirmed. Claimant voluntarily left employment when he failed to notify the temporary employment agency within three working days after the completion of his last work assignment of his availability for additional assignments. Benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terry P. Nice
Administrative Law Judge

Decision Dated and Mailed

tn/scn