ANDREW S GATTON Claimant	**APPEAL 17A-UI-00162-NM-T** **ADMINISTRATIVE LAW JUDGE** **DECISION**
AEROTEK INC Employer	
	OC: 09/04/16 **Claimant: Appellant (2)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 30, 2016, (reference 06) unemployment insurance decision that denied benefits based upon his voluntary quit for failing to report to work for three days in a row without notifying the employer. The parties were properly notified of the hearing. A telephone hearing was held on January 25, 2017. The claimant Andrew Gatton participated and testified. Also present on behalf of the claimant was Angela Gatton. The employer Aerotek Inc. did not participate.

ISSUE:

Did the claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a general laborer last assigned at Williamsburg Manufacturing beginning August 26, 2016, and was separated from the assignment, but not the employment, on December 23, 2016. The employer assignment representative notified the claimant that the assignment had ended and also advised the claimant that there were no additional assignments available. Claimant testified he did not receive and was unaware of any policy that required him to request additional assignments within a certain time frame, but that he did ask about additional assignments on December 23, 2016, when he was notified his assignment was ending by the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with 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. (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 lettered paragraph:

(a) "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.

(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 § 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 § 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 and seeking work at the end of the temporary assignment. In this case, the employer was aware that the assignment was ending, as it notified claimant of such on December 23, 2016. Claimant testified he immediately requested a new assignment and there was no work available. Furthermore, claimant testified he was not given a copy of any reporting policy and was not aware if the employer even had such a policy. Accordingly, no disqualification is imposed.

DECISION:

The December 30, 2016, (reference 06) unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Nicole Merrill
Administrative Law Judge

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Decision Dated and Mailed

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