

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STEVEN GRUTZMACHER
Claimant

**LA LEASING INC
SEDONA GROUP**
Employer

APPEAL 17A-UI-07651-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/18/17
Claimant: Appellant (4R)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 19, 2017, (reference 03) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on August 15, 2017. Claimant participated. Employer participated through unemployment benefits administrator Colleen McGuinty, and area manager Joe Vermeulen. Employer's Exhibit 1 was received.

ISSUES:

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?
Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed on a two-day banquet assignment at Spirit of Dubuque for two days ending December 3, 2016. After the assignment ended, the claimant failed to report to the employer within three working days to indicate availability for work, and request further assignment as required by written policy. He did contact the employer for work multiple times after December 7, 2016. The claimant did receive a copy of the reassignment reporting policy November 20, 2015.

Since the separation from L A Leasing, Inc., claimant has requalified for benefits but the specific date of requalification is unclear from the administrative record in relation to the June 18, 2017, claim date. That matter is remanded to the Benefits Bureau of IWD for an investigation and determination. Claimant may speed that process along by gathering paystubs from Thunder Hills since his separation with L A Leasing, Inc. and making an appointment to present them to the Davenport Iowa Works office.

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 but has since requalified for benefits.

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 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.

Each assignment with a temporary agency is considered a separate period of 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 employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

In this case, even though the employer may have known the assignment was limited to two days, the claimant did not notify the employer of his availability or request another assignment within three working days of December 3, 2016, and therefore, is considered to have quit the employment, even though he may have sought work from the temporary agency at some later date. Benefits are denied.

Iowa Code section 96.5(1)g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant's separation is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer (account number 237958) shall not be charged.

DECISION:

The July 19, 2017, (reference 03) unemployment insurance decision is modified in favor of the appellant. The claimant's separation was not attributable to the employer but he has since requalified for benefits. Benefits are allowed from an undetermined date in this claim year, provided he is otherwise eligible.

REMAND: The requalification timing issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for determination.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs