

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFFREY T LEE
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL 18A-UI-04607-DL-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 12/24/17
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 9, 2018, (reference 01) 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 May 21, 2018. Claimant participated. Employer did not respond to the hearing notice instruction by registering for the hearing and did not participate.

ISSUE:

Did 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: Claimant was employed as a temporary, full-time material handler for Remedy assigned at General Mills. The assignment separation date was March 11, 2018, because he had worked the maximum number of hours for the year. He did not return to Remedy to seek another assignment because he intended to collect unemployment insurance benefits while he waited to return to work at another General Mills assignment. He also did not return for interim work because he traveled to Chicago from March 15 through 25, 2018. Claimant denies receipt of a policy that complies with the specific terms of Iowa Code section 96.5(1)j, and the employer did not provide proof of giving such a policy to claimant at any time during his employment.

Claimant initially testified he made work searches but his weekly continued claim record reflects that none have been made. The administrative record reflects that claimant reported gross wages of \$2,300.00 in the first quarter of 2018, weekly continued claims, but the employer reported \$3,784.00 in gross wages for the same time period.

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 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.

Since employer provided no evidence that it presented claimant with a written copy of the reporting policy, claimant's recollection that he did not receive notice of the reporting policy is credible. Accordingly, no disqualification is imposed regarding this separation. However, the claimant's availability for work and work search history have not been addressed pursuant to Iowa Code section 96.4(3).

DECISION:

The April 9, 2018, (reference 01) unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Claimant is urged to review the Unemployment Insurance Benefits Handbook regarding availability for work and making work searches.

REMAND: The availability for work, work search, and wage reporting accuracy issues as delineated in the findings of fact are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination with notice and appeal rights to both parties.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs