

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHITAKIA K NASH
Claimant

AEROTEK INC
Employer

APPEAL 21A-UI-11306-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/17/20
Claimant: Appellant (2)

Iowa Code §96.5(2)a-Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit

STATEMENT OF THE CASE:

On April 27, 2021, the claimant/appellant filed an appeal from the April 21, 2021, (reference 05) unemployment insurance decision that disallowed benefits based on claimant being discharged for excessive absenteeism. The parties were properly notified about the hearing. A telephone hearing was held on July 9, 2021. Claimant personally participated at the hearing. Employer did not register a number to participate in the hearing prior to the hearing and therefore did not participate in the hearing.

ISSUE:

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary work agency. The claimant was employed full-time and was last assigned at Transamerica on November 9, 2020, and was separated from the assignment on March 23, 2021. The employer notified the claimant that the assignment had ended by email on March 23, 2021. Employer never informed the claimant that she was supposed to contact the employer and request a new job assignment within three days. There was no evidence presented employer has a policy that complies with the specific terms of Iowa Code § 96.5(1)j. However, claimant did request placement in a new assignment on March 23, 2021, which is within three working days of the assignment ending. Employer did not offer another assignment to the claimant.

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.

"Thus, the section establishes a general rule that "voluntary quitting" disqualifies an individual from unemployment benefits. However, an individual *is not* disqualified if 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." *Id.* Sladek v. Emp. Appeal Bd., 939 N.W.2d 632, 638 (Iowa 2020).

Since claimant contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and they did not have work available for her, no disqualification is imposed. Benefits are granted.

DECISION:

The April 21, 2021, (reference 05) unemployment insurance decision is REVERSED. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

July 20, 2021
Decision Dated and Mailed

cs/kmj