

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH M BLUHM

Claimant

DOHERTY STAFFING SOLUTIONS

Employer

APPEAL 19A-UI-01087-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/13/19

Claimant: Appellant (2)

Iowa Code § 96.5(1)(j) – VQ – Temporary employment firm

Iowa Admin. Code r. 871-24.26(15) – VQ – Employee of temporary employment firm

STATEMENT OF THE CASE:

Sarah Bluhm, Claimant, filed an appeal from the February 6, 2019 (reference 01) unemployment insurance decision that denied benefits because she voluntarily quit work with Doherty Staffing Solutions by failing to notify the temporary employment firm within three working days of the completion of the last work assignment and request a new assignment. The parties were properly notified of the hearing. A telephone hearing was held on March 20, 2019 at 9:00 a.m. Claimant participated. Employer participated through Glenda Niemiec, Unemployment Insurance Administrator, and Erica Simmer, On-site Manager. No exhibits were admitted.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to the employer.

Whether claimant made a timely request for another job assignment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed by Doherty Staffing Solutions, a temporary employment firm, from January 5, 2016 until her employment ended on January 7, 2019. (Niemiec Testimony) Claimant's assignment during that time was at Cargill, Inc. where she worked in food processing. (Niemiec Testimony; Simmer Testimony) On January 10, 2019, employer informed claimant that her assignment at Cargill, Inc. was completed. (Simmer Testimony) Claimant did not request a new assignment from employer within three days. (Claimant Testimony; Simmer Testimony) Claimant believed that her employment – not her assignment – had been terminated. (Claimant Testimony)

Claimant was not advised in writing of her duty to notify the employer within three days of completion of an assignment and to request a new assignment. (Claimant Testimony) Claimant did not receive a copy of the three day notice requirement. (Claimant Testimony)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily quit her employment. Benefits are allowed provided claimant is otherwise eligible.

Iowa Code section 96.5(1)(j) provides:

An individual shall be disqualified for benefits

1. 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.

Iowa Admin. Code r. 871-24.26(15) 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:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

The Iowa Supreme Court has thus been explicit; "the employer has the burden of proving that a claimant's departure from employment was voluntary." *Irving v. Employment Appeal Board*, 883, NW 2d 179, 210 (Iowa 2016).

Claimant's assignment at Cargill, Inc. ended on January 10, 2019. Claimant did not request another assignment within three days of her assignment ending. However, claimant's failure to request a new assignment is not deemed a voluntary quit because claimant was not notified in writing of the duty to request a new assignment within three days. Employer has not met its burden of proving that the claimant's separation from employment was voluntary. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The February 6, 2019 (reference 01) unemployment insurance decision is reversed. Benefits are allowed provided claimant is otherwise eligible.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/rvs