

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**ANDRE W TROTTER**  
Claimant

**APPEAL NO: 19A-UI-00417-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**  
Employer

**OC: 12/16/18**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 11, 2019, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 31, 2019. The claimant participated personally. The employer participated through Mai Lor, unemployment specialist II. Melissa Janss also testified.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Employer Exhibit 1 was admitted into evidence over objection. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was last assigned at MPC Enterprises in Mt. Pleasant from July 31, 2018, to Friday, August 24, 2018. After the assignment ended, the claimant failed to report to the employer within three working days and request further assignment as required by written policy. (Employer's Exhibit 1) The claimant had previously requested new assignments after an assignment ended.

On August 27, 2018, the claimant did contact the employer after receiving a voicemail from the branch manager about the assignment ending. He spoke to Melissa Janss, who documented her conversation with the claimant in the employer's electronic notes software. The claimant in this case spoke to Ms. Janss about issues related to Eric, a co-worker on this former assignment. The claimant was frustrated that the employer only listened to the client's side of things when determining whether to end an assignment. Ms. Janss stated the claimant did not request to be checked in or be assigned to another assignment.

The claimant disputed Ms. Janss' account of the phone call saying he would not have called the employer if he had not been interested in a new assignment. During his testimony, he did not recall who told him no assignments were available and also referenced Team Staffing, another temporary employment firm. He further stated that he had already worked at all clients for the employer and could not return. Ms. Janss asserted if the claimant had requested to be checked in or reassigned, work would have been available.

### **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.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(15) provides:

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 has 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 acceptable means of communications. Working days means the normal days in which the employer is open for business.

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.)

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* Assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, as shown in the factual conclusions reached in the above-noted findings of fact, the administrative law judge concludes that the claimant contacted the employer on August 27, 2018, but did not request an additional assignment.

The credible evidence in this case establishes the claimant's assignment ended on August 24, 2018. The employer notified the claimant of the assignment ended and the claimant called back on August 27, 2018. Ms. Janss credibly testified the claimant did call but that the purpose of his call was not to request reassignment but rather because he wanted the employer to hear his side of what happened between him and Eric, a co-worker at his last assignment. Ms. Janss' credibly testified that business practice is to document an employee requesting new assignment and "check them in" and her records to not reflect the claimant asked to be checked in or request a new placement. Therefore, based on the evidence presented, the administrative law

judge concludes the employer had notice of the claimant's availability because it notified him of the end of the assignment but he did not request another assignment. Benefits are denied.

**DECISION:**

The January 11, 2019, (reference 04) unemployment insurance decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as he works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

---

Jennifer L. Beckman  
Administrative Law Judge

---

Decision Dated and Mailed

jlb/scn