

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA M HERNANDEZ

Claimant

APPEAL NO. 13A-UI-03073-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL

Employer

OC: 05/06/12

Claimant: Appellant (1)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Tina Hernandez filed a timely appeal from the March 12, 2013, reference 07, decision that denied benefits based on an agency conclusion that she voluntarily quit her employment with Adventure Staffing & Professional without good cause attributable to the employer effective December 21, 2012. After due notice was issued, a hearing was held on April 11, 2013. Claimant participated. Cyd Hall represented the employer. Exhibits One, Two and Three were received into evidence.

ISSUE:

Whether the claimant's December 2012 separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Adventure Staffing & Professional is a temporary employment agency. Tina Hernandez began getting work through the employer in June 2011 and performed work in multiple temporary work assignments at Montezuma Manufacturing in Montezuma. Ms. Hernandez lived in Marshalltown at all relevant times. Ms. Hernandez started the most recent full-time, temporary work assignment on December 4, 2012. Ms. Hernandez completed that assignment on December 17, 2012. Ms. Hernandez, the employer, and the client business all knew at the start of the assignment that it was only intended to last while another worker was absent from work and that the assignment would end on December 17, 2012. The employer had an onsite supervisor at Montezuma Manufacturing, Carol Thomason. On December 17, the Montezuma Manufacturing supervisor thanked Ms. Hernandez for her help. Ms. Thomason was not at work that day. Ms. Thomason had previously directed Ms. Hernandez to give her a call after the holidays. Ms. Hernandez next had contact with Adventure Staffing & Professional on January 3, 2013. Ms. Hernandez was at that time not interested in returning to Montezuma Manufacturing, but instead wanted something closer to Marshalltown.

When Ms. Hernandez started with the employer in 2011, the employer had her sign a stand-alone policy statement that obligated her to contact the employer within three days of completing each assignment or be deemed to have voluntarily quit. The policy warned the failure to contact the employer within the required timeframe could lead to unemployment insurance ineligibility. Ms. Hernandez received a copy of the policy at the time she signed it. The employer did not have her re-sign the policy in connection with the December 2012 assignment.

The employer maintains an office in Grinnell. Ms. Hernandez was aware that the employer maintained an office in Grinnell. Ms. Hernandez did not make contact with the office in Grinnell within three working days of completing the assignment at Montezuma Manufacturing.

REASONING AND CONCLUSIONS OF LAW:

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. 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.

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.

For the purposes of this paragraph:

(1) "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.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

871 IAC 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.

The employer's end-of-assignment notification policy complies with the statutory requirements. Ms. Hernandez signed the policy and received a copy of the policy when she began working for the employer. The employer was not obligated to have Ms. Hernandez re-sign the policy each time she commenced a new work assignment. Ms. Hernandez completed the assignment on December 17, 2012. Ms. Hernandez then made no further contact with the employer until January 3, 2013. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Hernandez's December 17, 2012 separation from the temporary employment agency was without for good cause attributable to the temporary employment agency. Effective December 17, 2012, Ms. Hernandez is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to at least 10 times her weekly benefit amount, provided she is otherwise eligible. The employer's account will not be charged for benefits paid to the claimant in connection with the December 17, 2012 separation.

DECISION:

The Agency representative's March 12, 2013, reference 07, decision is affirmed. The claimant's December 17, 2012 separation from the temporary employment agency was without for good cause attributable to the temporary employment agency. The claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to at least 10 times her weekly benefit amount, provided she is otherwise eligible. The employer's account will not be charged for benefits paid to the claimant in connection with the December 17, 2012 separation.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs