

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CARVELL J UTLEY
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL NO. 20A-UI-12431-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Carvell Utley filed a timely appeal from the October 1, 2020, reference 03, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that the claimant voluntarily quit on December 7, 2019 by failing to contact the employer within three working days of completing an assignment to request new one, after having been told in writing of his obligation to make such contact. After due notice was issued, a hearing was held on December 8, 2020. Mr. Utley participated. Sarah Fiedler represented the employer.

ISSUE:

Whether the claimant's 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: Carvell Utley most recently performed work for Team Staffing Solutions, Inc. in a full-time, long-term assignment at Williamsburg Manufacturing. The assignment began on November 5, 2020. The work hours in the assignment were 10:30 p.m. to 6:30 a.m., Sunday evening to Saturday morning. The assignment also involved weekend overtime as needed. The assignment ended on December 7, 2019 after Mr. Utley balked at a directive to assist a lagging coworker and the team lead directed Mr. Utley to leave. Through this interaction with client business ended the assignment. Mr. Utley did not make further contact with Team Staffing until August 28, 2020. On November 1, 2019, Mr. Utley signed a Team Staffing Solutions stand-alone policy that obligated him to contact the temporary employment firm within three working days of completing an assignment or be deemed to have voluntarily quit and risk being disqualified for unemployment insurance benefits. The employer provided Mr. Utley with a copy of the document he signed.

REASONING AND CONCLUSIONS OF LAW:

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(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 evidence in the record establishes a voluntary quit that was without good cause attributable to the employer. The employer complied with the requirements of Iowa Code section 96.5(1)(j) to put the claimant on notice of his obligation to contact the employer within three working days of completing an assignment. The assignment was completed on December 7, 2020. The claimant did not contact the employer within the required three working days timeframe and did not contact the employer until more than eight months later. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that the claimant's separation from the temporary employment agency on December 7, 2019 was without good cause attributable to the temporary employment agency. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The October 1, 2020, reference 03, decision is affirmed. The claimant voluntarily quit on December 7, 2019 was without good cause attributable to the temporary employment agency. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



James E. Timberland
Administrative Law Judge

December 16, 2020
Decision Dated and Mailed

jet/mh

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received.**