

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES PEACOCK
Claimant

APPEAL NO: 13A-UI-04475-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING
SEDONA STAFFING**
Employer

OC: 12/23/12
Claimant: Appellant (2)

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

James Peacock (claimant) appealed an unemployment insurance decision dated April 8, 2013, reference 04, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Sedona Staffing (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 16, 2013. The claimant participated in the hearing. The employer participated through Chad Baker, Worker's Compensation Administrator Corporate Office and Nathan Homb, Account Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment, when and if notified of this requirement at the time of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment agency and the claimant was hired on April 12, 2012. At the time of hire, he signed an availability statement which advised him of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit. The claimant was given a copy of the availability statement, which is not part of the application or contract of employment.

The claimant was most recently assigned to AY McDonald Manufacturing on November 12, 2012. He was struggling with depression and missed nine days of work. The claimant reported the absences to AY McDonald but was also required to report his absences to Sedona and had only reported one absence to the employer. The client company asked to have the claimant

removed from his assignment on Friday, March 8, 2013 and Account Manager Nathan Homb notified the claimant on that same day that his assignment was over.

The claimant called the employer on Monday, March 11, 2013 to ask to be placed inactive since he was going into the hospital. He called the employer two days later to become active again as he was requesting additional work. The claimant has checked in regularly since that time but due to his attendance issues, he is not high on the employer's list to be called for a job.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

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. 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.

In the case herein, the claimant was given the availability statement and should have known he was required to contact the employer within three days after the completion of his assignment but denies knowing that fact. Despite his lack of knowledge, he did check in with the employer on the first business day after the end of his assignment but asked to go inactive as he was going in the hospital. However, two days later and on the third day after the end of his assignment, he requested additional work but none was available. He has also checked in regularly since that time. Consequently, the claimant satisfied the requirements of Iowa Code § 96.5-1-j and his separation is with good cause attributable to the employer. Benefits are allowed.

DECISION:

The unemployment insurance decision dated April 8, 2013, reference 04, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css