

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CONNIE R ROBESON**  
Claimant

**APPEAL NO. 16A-UI-13808-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AVENTURE STAFFING & PROFESSIONAL**  
Employer

**OC: 02/28/16**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Connie Robeson filed a timely appeal from the December 21, 2016, reference 02, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the claims deputy's conclusion that Ms. Robeson had voluntarily quit on November 23, 2016 without good cause attributable to the employer by failing to contact the temporary employment agency within three work days of the completing of an assignment. After due notice was issued, a hearing was held on January 20, 2017. Ms. Robeson participated. Toni Huguin represented the employer and presented additional testimony through Christine Salem. Exhibits 1 through 6 and B through F were received into evidence.

**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: Aventure Staffing & Professional is a temporary employment agency. Connie Robeson established her employment with Aventure in November 2016 and performed work for the employer in a single, full-time, temp-to-hire assignment. The assignment was a receptionist at Saber Industries in Sioux City. Ms. Robeson's work hours in the assignment were 8:00 a.m. to 5:00 p.m., Monday through Friday. The assignment started on November 4, 2016 and ended on Wednesday, November 23, 2016, when Saber selected another candidate for the permanent receptionist position. Ms. Robeson completed the assignment.

On November 3, 2016, Ms. Robeson had signed a number of Aventure policy documents in connection with commencing her employment. One of those documents was captioned an Employee Agreement. That document stated as follows:

I understand I must contact Aventure Staffing & Professional Services, LLC/All in a Day Staffing within three (3) business days of completion of each assignment to request additional work. My failure to contact the Aventure Staffing office indicates that I am not available for work and will be deemed a voluntary quit. This will lead to inactivation and may lead to unemployment ineligibility.

Ms. Robeson received a copy of that document after signing it and understood that she was obligated to contact Aventure at the end of an assignment.

Ms. Robeson signed additional documents at the start of the employment that also referenced the requirement to contact Aventure at the end of an assignment. Ms. Robeson signed to acknowledge the employee handbook. The handbook contained a statement of the end-of-assignment contact requirement and went on to say that Ms. Robeson had to “call in [her] availability every week thereafter.”

Thursday, November 24, 2016 was the Thanksgiving Day holiday. Friday, November 25, 2016 was the day after Thanksgiving. Aventure was closed on Thanksgiving Day. Ms. Robeson assumed that Aventure would also be closed the Friday following Thanksgiving.

On Monday, November 28, 2016, Ms. Robeson telephoned Aventure Staffing & Professional and left a voice mail message for Christine Salem, Branch Manager. In the message, Ms. Robeson stated that she believed that she had been shorted work hours and pay in her most recent paycheck. Ms. Salem reviewed the matter, determined Ms. Robeson was correct, and called Ms. Robeson back on that same day. During the call, Ms. Salem and Ms. Robeson first addressed the pay matter. Ms. Salem then asked Ms. Robeson whether she was still working at Saber. Ms. Robeson told Ms. Salem that Saber had hired someone else for the permanent position and that November 23 had been Ms. Robeson's last day. Ms. Robeson told Ms. Salem that she was available for other assignments. Ms. Salem told Ms. Robeson that she did not have anything at that moment, but that she would contact Ms. Robeson if there was an assignment that was a good fit with Ms. Robeson's skill set. Ms. Robeson's call to the employer and from the employer are documented in Ms. Robeson's phone records. The content of the calls is not documented in Ms. Robeson's phone records.

Within half an hour of Ms. Salem's return call to Ms. Robeson on November 28, Ms. Salem sent a message to an Aventure accounting/payroll specialist indicating that Ms. Robeson desired to have the balance of the wages owed to her direct deposited to her bank account. Ms. Salem did not reference in her email that Ms. Robeson had requested additional work, but there was not a need to include such information in the correspondence to the payroll specialist.

On December 5, 2016, Ms. Robeson sent an email to Aventure to remind them that she was “still available for full-time direct hire, temp to hire or temp positions.” Ms. Robeson sent three more similar emails to the employer in December 2016.

On December 20, 2016, Ms. Robeson and Toni Holquin, Aventure Human Resources Specialist, participated in an unemployment insurance fact-finding interview. Ms. Holquin had had no contact with Ms. Robeson prior to the fact-finding interview. Ms. Holquin asserted that Ms. Robeson had not requested a new work assignment within three working days of completing her assignment and that Ms. Robeson's first contact with the employer was an email on December 5, 2016. At the time of the fact-finding interview, Ms. Robeson could not remember that she had telephoned Aventure on November 28 and did not mention contact on that day. After Ms. Robeson received the decision denying benefits, she reviewed her phone records and saw that she had indeed been in contact with the employer twice on November 28, 2016. Review of the phone record triggered Ms. Robeson's memory of the content of the phone conversation on November 28, 2016. Ms. Salem had not documented the contact on November 28 other than through the email message to the payroll specialist. Ms. Salem deals with 15 to 20 employees per day on different matters. She does not document all contact, but is in the habit of documenting contact regarding the end of an assignment. Ms. Salem cannot at this point recall the content of her November 28 conversation with Ms. Robeson.

**REASONING AND CONCLUSIONS OF LAW:**

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. (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 Employee Agreement could more artfully written, but the policy does indeed fulfill the notice required by Iowa Code Section 96.5(1)(j). Ms. Robeson signed the policy and received a copy of the policy. Accordingly, Iowa Code Section 96.5(1)(j) applied to the temporary employment arrangement and Ms. Robeson was indeed required to contact the employer within three working days of the end of the assignment to request a new one. The weight of the evidence in the record establishes that Ms. Robeson satisfied that contact requirement during her conversation with Ms. Salem on Monday, November 28, 2016. The parties are in agreement that Ms. Robeson and Ms. Salem spoke by telephone that day. Neither party documented the content of the call beyond Ms. Robeson's telephone billing record and Ms. Salem's email to the payroll specialist concerning the shorted pay. A reasonable person would expect the conversation on that day to include discussion of the assignment having ended. While Ms. Robeson's inability to remember the contact or details of the contact at the time of the December 20 fact-finding interview was a factor to be considered, a reasonable person could also see how reviewing the phone record showing the two calls could jog Ms. Robeson's memory regarding the content of the contact. Ms. Robeson's other actions at the time of the separation and thereafter are consistent with a person trying in good faith to secure new employment. The weight of the evidence supports Ms. Robeson's assertion that she asked for a new assignment on November 28, 2016 and that the employer did not have a new assignment for her at that time.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Robeson's November 23, 2016 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Ms. Robeson is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Robeson.

**DECISION:**

The December 21, 2016, reference 02, decision is reversed. The claimant's November 23, 2016 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs