

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM A MULLEN
Claimant

APPEAL NO: 18A-UI-02701-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 10/01/17
Claimant: Appellant (1)

Iowa Code Section 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 23, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 26, 2018. The claimant participated in the hearing with his mother Karen Mullen. Sarah Fiedler, Human Resources Generalist and Charity Garrison, Branch Manager, participated in the hearing on behalf of the employer. Account Managers Allen Henshaw and Mary Kirchner were subpoenaed by the claimant. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time machine maintenance worker for Team Staffing Solutions Inc. last assigned at HON from October 23, 2017, to January 28, 2018. The employer notified the claimant January 29, 2018, that his assignment was over. The employer has a policy that requires employees to report to the employer for further assignment within three days upon the completion of an assignment. The employer provides the employee a copy of the policy that the employee signs indicating he understands the policy. After the assignment ended January 28, 2018, the claimant failed to report to the employer within three working days as required by written policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his 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(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.

Separation from a temporary employment firm requires a two part analysis. The first question is whether the claimant's separation from the employer is disqualifying. In this case, the claimant completed his assignment at HON. There was no misconduct regarding the assignment and the claimant did not quit the assignment. He finished the assignment. Because he completed the assignment, the second question must be answered. That question is whether the claimant sought reassignment from the employer within three business days of the end of his assignment. 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 he may be reassigned and continue working. In this case, the claimant did not contact the employer and ask for another assignment and when the employer initiated a phone call with the claimant about two other potential assignments, the claimant said those clients would not hire him and he needed to update his resume and would get back to the employer but did not do so. Under these circumstances, the administrative law judge must conclude the claimant gave the employer no notice of his availability and consequently is considered to have quit the employment. Therefore, benefits are denied.

DECISION:

The February 23, 2018, reference 01, decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn