

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACOB MCGINN

Claimant

APPEAL 19A-UI-04077-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING INC

Employer

OC: 03/31/19

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 9, 2019, (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his temporary employment. The parties were properly notified of the hearing. A telephonic hearing was held on June 12, 2019. The claimant, Jacob McGinn, participated. The employer, Sedona Staffing, Inc., participated through Colleen McGuinty, Unemployment Benefits Administrator. The administrative law judge took official notice of the administrative record.

ISSUE:

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time, most recently as a temporary employee assigned to Northeast Machine and Tool, beginning December 17, 2018. On March 14, 2019, he was laid off from his assignment at Northeast Machine and Tool due to a lack of work.

After claimant was laid off, he immediately began looking for jobs. Claimant did not report back to the employer to request an additional assignment from them. Claimant explained that he was not interested in another temporary position from which he could be laid off again. Claimant acknowledges that the employer maintains a policy requiring employees to report back within three working days of an assignment ending to request an additional assignment. Claimant signed this policy on December 17, 2018. Claimant was advised that failing to report back within three working days of his assignment ending could affect his eligibility for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

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(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment.

In this case, claimant admits he failed to contact the employer within three working days of the notification of the end of the assignment to request an additional assignment. Claimant signed a copy of the employer's three-day policy and he knew that failing to follow that policy could affect his eligibility for unemployment insurance benefits. The administrative law judge finds claimant's separation from employment is without good cause attributable to the employer. Benefits are withheld.

DECISION:

The May 9, 2019, (reference 02) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn