

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

ALEX M YOUNG
Claimant

PEOPLEREADY INC
Employer

APPEAL NO. 23A-UI-05612-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/27/22
Claimant: Respondent (5)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment
Iowa Admin. Code r. 871-24.26(19) – Fulfillment of the Contract of Hire

STATEMENT OF THE CASE:

On May 25, 2023, the employer filed a timely appeal from the May 15, 2023 (reference 07) decision that allowed benefits to the claimant, provided he was otherwise eligible, and that held the employer's account could be charged for benefits, based on the deputy's conclusion the claimant's separation was for good cause attributable to the temporary employment firm. The reference 07 decision included a clerical error regarding the year of the separation. The decision referenced an "11/09/23" separation, rather than a date in November 2022. After due notice was issued, a hearing was held on June 19, 2023. Alex Young (claimant) did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. Keana Hampton, Cedar Falls Branch Manager, represented the employer. The administrative law judge took official notice of the benefits disbursed to the claimant (DBRO). The administrative law judge took official notice of the employer protest materials, and of the fact-finding materials, for the limited purpose of determining whether the employer participated in the fact-finding interview and, if not, whether the claimant engaged in fraud or willful misrepresentation in connection with the fact-finding interview.

ISSUE:

Whether the claimant's November 2022 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:
PeopleReady, Inc. is temporary employment agency that has a branch office in Cedar Falls.

Alex Young (claimant) has been employed with the PeopleReady during multiple separate, distinct periods. The Cedar Falls branch facilitated the claimant's employment.

The claimant completed a temporary work assignment with Cedar Falls Construction on November 2, 2022, when that client no longer had work for the claimant to perform. The employer witness lacks personal knowledge regarding who notified the claimant the assignment

was done or when such notice was provided to the claimant. The employer witness was not with the Cedar Falls branch office during the period in question. The Cedar Falls branch office did not document whether or when there was contact between the claimant and the employer in connection with the assignment coming to an end in November.

In August 2022, the employer had the claimant sign an end-of-assignment notification policy that obligated the claimant to contact the employer within working days of the end of an assignment or be deemed to have voluntarily quit and risk being disqualified for benefits. The employer witness lacks personal knowledge and cannot say whether the employer provided the claimant with a copy of the policy document the claimant signed. The employer did not provide the document as an exhibit for the appeal hearing, but testified about the contents of the document.

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 indicates a November 2, 2022 separation for good cause attributable to the employer. The claimant completed an assignment on November 2, 2022. The employer presented insufficient evidence to prove the employer provided the claimant with a copy of the end-of-assignment notification policy the claimant signed. In the absence of such proof, Iowa Code section 96.5(1)(j) does not apply and the claimant fulfilled the contract of hire when he completed the assignment. Even if the evidence had established the employer provided the claimant with a copy of the form the claimant signed, and that Iowa Code section 96.5(1)(j) applied, the employer presented insufficient evidence to prove the claimant failed to make timely contact with the employer to request placement in a new assignment. The employer witness lacked personal knowledge of the matters in question. There is insufficient evidence to establish the records upon which the employer witness based her testimony were accurate, reliable or complete. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The May 15, 2023 (reference 07) decision is MODIFIED only to correct the separation date to November 2, 2022. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

June 21, 2023
Decision Dated and Mailed

scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.