

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

WILLIAM R EICHELBERGER
Claimant

APPEAL NO. 15A-UI-06468-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

R J PERSONNEL INC
Employer

**OC: 04/12/15
Claimant: Appellant (1)**

Section 96.5-(1)j - Voluntary Leaving - Temporary Employment

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 26, 2015, reference 04, which denied unemployment insurance benefits finding that the claimant did not notify the temporary employment service of his availability within three working days after the completion of his last work assigned. After due notice was provided, a telephone hearing was held on July 15, 2015. The claimant participated personally. The employer participated by Ms. Holly Jacobi, Account Manager. Employer's Exhibit A was admitted into the record.

ISSUE:

At issue is whether the claimant quit his employment with the temporary service by failing to contact the temporary service within three working days after the completion of each assignment, to establish his availability for additional assignments as agreed

FINDINGS OF FACT:

Having considered all the evidence in the record, the administrative law judge finds: William Eichelberger began employment with R J Personnel Inc. in the year 2010. At the time that the claimant accepted employment with the temporary employment service, he agreed in writing to contact the temporary service within three working days of the completion of each work assignment to notify the temporary employment firm of his availability for additional assignments. The agreement provided that the claimant's failure to do so would be considered to be a voluntary quit and might affect his unemployment insurance benefits. Mr. Eichelberger subsequently signed a copy of the agreement at a later date.

Mr. Eichelberger was most recently assigned to work as a general laborer for the Musco Company. That assignment began on April 21, 2014 and came to an end on April 10, 2015, when Mr. Eichelberger was informed by the client employer that the assignment was ending. Although the claimant had agreed to contact the temporary employment service within three working days after the completion of each assignment, he did not do so, and after three or more working days had elapsed, the temporary employment service considered that the claimant had voluntarily quit employment because of not contacting the temporary employment service employer as agreed.

Although Mr. Eichelberger had agreed in writing to contact the temporary employment services within three working days of the completion of each assignment to establish his availability for additional assignment, the claimant relied upon the representations of an employee of the Musco Company that that person would contact the temporary employment service about the end of Mr. Eichelberger's job assignment. Based upon the claimant's failure to contact the temporary service within three working days as agreed, the temporary employer considered that the claimant had chosen to voluntarily quit his work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code section 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.

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 they may be

reassigned and continue working. In this case, the claimant gave the employer no notice of his availability and therefore is considered to have quit the employment.

DECISION:

The representative's decision dated May 26, 2015, reference 04, is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until the claimant earns wages for insured work equal to ten times his weekly benefit amount and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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