

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROY E SPANGENBURG**

Claimant

**APPEAL NO. 14A-UI-00724-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**

Employer

**OC: 12/08/13**

**Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 10, 2014, reference 04, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be charged for benefits. The decision was based on a December 2013 separation. After due notice was issued, a hearing was held on February 11, 2014. Claimant Roy Spangenburg did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Rhonda Hefter de Santisteban represented the employer and presented additional testimony through Dan Garcia. The administrative law judge took official notice of the agency's administrative record of benefits paid to the claimant. The administrative law judge took official notice of the documents submitted for and generated in connection with the fact-finding interview, but did so for the sole purpose of determining whether the employer participated in the fact-finding interview.

**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: The employer is a temporary employment agency. Roy Spangenburg began getting work through QPS Employment Group, Inc., in March 2013. Mr. Spangenburg last performed work for the employer in a full-time temporary assignment that started on December 3, 2013. Mr. Spangenburg last performed work in the assignment on December 5, 2013. On December 9, 2013, QPS notified Mr. Spangenburg by voicemail message that the assignment was ended. The client business had concluded that the assignment was not working out and ended the assignment. Mr. Spangenburg completed the assignment. His separation from the assignment was not based on misconduct. Mr. Spangenburg had no further contact with QPS after the employer left a message for him on December 9, 2013.

On November 6, 2012, the employer had Mr. Spangenburg sign a "3-Day Reassignment Policy." The employer gave Mr. Spangenburg a copy of the policy he signed. The policy stated as follows:

Once you complete an assignment with a client, it is your duty to contact QPS for reassignment within three (3) working days as required by Iowa Code Section 96.5-1-j. Failure to report within three (3) days for reassignment or to accept a new job assignment offered without reasonable cause will indicate that you have refused available work and quit working for QPS Employment Group.

The policy statement did not mention any impact on Mr. Spangenburg's unemployment insurance benefit eligibility if he failed to make contact with QPS after completing an assignment.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

871 IAC 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 employer's 3-Day Reassignment Policy does not fulfill the requirements of Iowa Code section 96.5(1)(j) The policy lacked notice to Mr. Spangenburg of the unemployment insurance consequences if he failed to make contact with the employer within three working days of the end of an assignment. Because the policy failed to comply with the notice requirement set forth in the statute, Iowa Code section 96.5(1)(j) cannot serve as a basis for disqualifying Mr. Spangenburg for unemployment insurance benefits. Mr. Spangenburg fulfilled his obligation to the employer when he completed the assignment and was under no obligation to seek further assignment through the employer.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Spangenburg's December 9, 2013 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Spangenburg is eligible for benefits provided he is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The Agency representative's January 10, 2014, reference 04, decision is affirmed. The claimant's December 9, 2013 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 paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs