

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICK BAKER
Claimant

APPEAL 21A-UI-16521-DH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

**OC: 05/23/21
Claimant: Appellant (1)**

Iowa Code §96.5(1) - Voluntary Quit
Iowa Code §96.5(2)a - Discharge for Misconduct
Iowa Code § 96.5(1)j - Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 26, 2021, (reference 02) unemployment insurance decision that concluded claimant/appellant was not eligible for unemployment insurance benefits due to their voluntary quit on April 29, 2021. The parties were properly notified of the hearing. A telephone hearing was held on September 21, 2021. The claimant, Rick Baker, participated and testified. The employer, Team Staffing Solutions Inc., did participate through Sarah C. Fiedler, SHRM-CP, Risk Manager. Employer's Exhibit 1 was admitted into evidence. Judicial notice was taken of the administrative file and the records contained therein.

ISSUES:

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

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

FINDINGS OF FACT:

Having heard the testimony and reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed with employer beginning September 29, 2020. Claimant started an assignment on December 18, 2020. On April 29, 2021, claimant was separated from the assignment, but not the employment. The separation was at the request of entity claimant was assigned to, as claimant had excessive absences (eleven in this timeframe). Claimant advises the absences toward the end was due to dental pain. On April 29, 2021, the employer called claimant to advise him the assignment had ended. Claimant asked if they had anything available for him and there was. Employer and claimant conversed regarding claimant's ability to work given the reason for the end of the assignment. Claimant decided that he was in too much pain to work at the moment and as soon as he finished his dental matter and felt better, he would reach out to his employer for a new assignment.

Claimant called for a new assignment May 11, 2021. The employer has a policy in place that requires employees to notify it if an assignment is ended and request a new assignment within three business days of an assignment ending; and claimant was given a copy of the policy. (ER Exhibit 1). Claimant's date of separation is April 29, 2021, as he did not request a new assignment, making this a voluntary quit. Claimant did not contact employer for an assignment until May 11, 2021, well past the three-day window. Claimant is back at employer, performing assignments.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was a voluntary quit for failing to timely request a new assignment.

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 lettered paragraph:

(a) "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.

(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 § 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 § 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.

Since employer provided evidence that it presented claimant with a written copy of the reporting policy and claimant did not comply with the policy at the end of his assignment, according to Iowa Code § 96.5(1)j, the separation is disqualifying.

DECISION:

The July 26, 2021, (reference 02) unemployment insurance decision is AFFIRMED. The claimant's separation from employment was a voluntary quit and is not attributable to the employer. Benefits are disallowed.



Darrin T. Hamilton
Administrative Law Judge

September 23, 2021
Decision Dated and Mailed

dh/scn