

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBRA K LOWE
Claimant

APPEAL NO. 16A-UI-05794-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 04/10/16
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 May 12, 2016, reference 03, decision that allowed benefits to the claimant, provided she was otherwise eligible, and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant's April 13, 2016 separation from the temporary employment agency was for good cause attributable to the employer. After due notice was issued, a hearing was held on June 9, 2016. Claimant Debra Lowe participated. Rhonda Hefter De Santisteban represented the employer and presented additional testimony through Charity Ramirez. Exhibit One was received into evidence.

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: QPS Employment Group, Inc. is a temporary employment agency. Debra Lowe performed work for the employer in a full-time work assignment at Traffix Devices in Fairfield. Ms. Lowe started the assignment on March 7, 2016 and last performed work in the assignment on April 7, 2016. On that day, the client business ended the assignment for unspecified performance issues. On March 8, 2016, Charity Ramirez, QPS Placement Coordinator, notified Ms. Lowe that the assignment was ended. Ms. Lowe asked Ms. Ramirez whether QPS had any other work for her. Ms. Ramirez told Ms. Lowe that the only other work the employer had was factory work, meaning work outside Ms. Lowe's physical capabilities. There was no further contact between the parties.

On February 3, 2016, Ms. Lowe signed the employer's Three-Day Reassignment Policy and received a copy of the policy. The policy obligated Ms. Lowe to contact the employer within three working day of completing an assignment to request a new assignment or be deemed to have voluntarily quit and risk disqualification for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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. 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.

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 employer's end-of-assignment notification policy complies with the statutory requirements. The employer provided Ms. Lowe with a copy of the policy that Ms. Lowe signed. The weight of the evidence establishes that Ms. Lowe did indeed request a new assignment at the time Ms. Ramirez notified her that the assignment at Traffix was ended. The administrative law judge found no reason in the record to discount Ms. Lowe's testimony in that regard. Ms. Lowe's testimony was in all respects candid and even-handed. The administrative law judge notes that Ms. Lowe had one person's affairs to be concerned with and keep track of, her own. On the other hand, Ms. Lowe was but one of many employees Ms. Ramirez had contact and conversations with. The evidence provides no reason to suggest that Ms. Ramirez's recollection of the conversation is more reliable than Ms. Lowe's. The employer has the burden of proving that the claimant is ineligible or benefits under Iowa Code section 96.5 and the employer failed to meet that burden of proof by a preponderance of the evidence. See Iowa Code section 96.6(2).

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that the claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The separation occurred on April 8, 2016, not April 13, 2016. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The May 12, 2016, reference 03, decision is affirmed. The separation date is corrected to April 8, 2016. 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 she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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