

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KATHY J SMITH
Claimant

ALL IN A DAY LLC
Employer

APPEAL 17R-UI-00213-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/09/16
Claimant: Appellant (1)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 3, 2016, (reference 02) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was scheduled to be held on November 22, 2016. The claimant did not appear at the hearing and her appeal was dismissed. Upon successful requesting reopening, the hearing was remanded for a new hearing to allow the parties to participate. Due notice was issued for the hearing held by telephone on February 14, 2017. The claimant participated personally. The employer participated through Toni Holguin, human resources. Amy Fischer, branch manager, also testified. Claimant Exhibit A and Employer Exhibit 1 were received into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was last assigned at Pioneer in production from August 27, 2016, to September 30, 2016. After the assignment ended, the claimant failed to report to the employer within three working days and request further assignment as required by written policy. (Employer's Exhibit 1) The claimant next reported to the employer to retrieve her final paycheck stub. The paycheck stub was not available until October 7, 2016, which is after 3 business days of her assignment ending. The claimant also informed the employer when she picked up her paycheck stub that she would search for future employment on her own.

REASONING AND CONCLUSIONS OF LAW:

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

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 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 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. The plain language of the statute allows benefits for a claimant “who notifies the temporary employment firm of completion of an employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

The evidence presented is that the claimant’s assignment at Pioneer in Algona ended on September 30, 2016. The claimant did not seek future reassignment. Rather, at least a week passed before the claimant went to her employer to retrieve her final paystub and also informed the employer she would look for future jobs on her own. In this case, the claimant did not notify the employer of her availability or request another assignment and, therefore, is considered to have quit the employment, even though she may have returned to work for the temporary agency at some later date. Benefits are denied.

DECISION:

The November 3, 2016, (reference 02) unemployment insurance decision is affirmed. The claimant’s separation was not attributable to the employer. Benefits are withheld until such time as she works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/rvs