

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

AARON A ACKER
Claimant

APPEAL NO. 18A-UI-12251-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PEOPLEREADY INC
Employer

OC: 11/04/18
Claimant: Respondent (1)

Section 96.5-1-j – Separation from Temporary Employer
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

PeopleReady (employer) appealed a representative's December 12, 2018, decision (reference 02) that concluded Aaron Acker (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 9, 2019. The claimant participated personally and through Mitchell Flowers, former co-worker. The employer participated by Cathy Scott, Assistant Manager. Exhibit D-1 was received into evidence. The employer offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from August 23, 2016, through August 31, 2018. On September 25, 2015, when he worked for another company, Labor Ready, he signed a document indicating he was to contact Labor Ready within three business days following the completion of an assignment to request placement in a new assignment. The claimant was not given a copy of the document. The document was not separate from the contract for hire.

On that same day he signed another Labor Ready document that said, "I understand and agree that I am not required to work or register my availability to work for the Company on any particular day. If I want to work, I may register my availability to work by text, phone or by visiting a branch...Failure to register my availability for work may affect my eligibility for unemployment compensation."

The claimant did not work on August 31, and September 1, 2018, because the co-worker he rode to work with was in the hospital. On September 4 and 5, 2018, he did not work because

his wife was in the hospital. The claimant's assignment ended on October 5, 2018. He sought reassignment from the employer that same day. The employer had no work available.

The claimant filed for unemployment insurance benefits with an effective date of November 4, 2018. The employer provided the name and number of Cathy Scott as the person who would participate in the fact-finding interview on December 11, 2018. The fact finder called Ms. Scott but she was not available. The fact finder left a voice message with the fact finder's name, number, and the employer's appeal rights. The employer did not respond to the message.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not separated from employment for a disqualifying reason.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Under the Iowa Code the employer must advise the claimant of the three day notice requirement and give the claimant a copy of that requirement. The notice requirement must be separate from the contract for hire. The employer did not provide the claimant with the proper notice requirements and has, therefore, failed to satisfy the requirements of Iowa Code Section 96.5-1-j. The employer did not provide the claimant with any notice requirement. Another company gave the claimant some notices before he started working for the employer. Those notices contradict each other. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's December 12, 2018, decision (reference 02) is affirmed. The claimant was separated from the employer for good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs