

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALAN J SMITH**  
Claimant

**APPEAL NO. 11A-UI-03045-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ANNA ENTERPRISES  
STAFFING SOLUTIONS**  
Employer

**OC: 07/25/10  
Claimant: Respondent (4)**

Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)  
Iowa Code § 96.5(1)a – Voluntary Leaving – Other Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 8, 2011 (reference 02) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on March 31, 2011. Claimant participated. Employer participated through assistant manager, Katherine Druivenga.

**ISSUE:**

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant most recently worked in a temporary assignment and was separated from employment on January 6, 2011 when the short-term assignment ended. The client notified claimant of the end of the assignment and claimant contacted the employer on January 7, 2010 but there was no work available at the time. On January 26, 2011 when the employer contacted him about another assignment, he declined because he had already accepted an assignment for another staffing company that would overlap with the offer. He began regular, full-time employment the week beginning March 27, 2011. The claimant exhausted and did not claim benefits beyond the week ending January 22, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer and adequately notified employer of his availability for additional assignments.

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.

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 § 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.

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Since claimant contacted the employer within three working days of the notification of the end of the assignment, and there was no work available, benefits are allowed, provided the claimant is otherwise eligible effective January 6, 2011.

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the most recent offer was made on January 26, 2011 when claimant had ceased claiming benefits, there is no direct effect to the claim. In the event of another claim or reopening of the claim, the separation from Anna Enterprises, doing business as Staffing Solutions, was to accept work elsewhere. Accordingly, benefits are allowed and the account of the employer shall not be charged.

**DECISION:**

The March 8, 2011 (reference 02) decision is modified in favor of the appellant. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about his availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible through the week ending January 22, 2011. In the

event additional claims for benefits are made, effective January 23, 2011 the account of this employer (330162) shall not be charged based upon the January 26, 2011 offer of work and separation.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/css