

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEBORAH L FIELDS
Claimant

AVENTURE STAFFING & PROFESSIONAL
Employer

APPEAL 17A-UI-00076-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/27/16
Claimant: Appellant (1)**

Iowa Code § 96.6-2 – Timeliness of Appeal
Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 20, 2016, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 25, 2017. Claimant participated along with her witness Wes Reynolds. Employer participated through Tony Holguin, Human Resources Specialist and Jordan Dick, Employment Specialist. Department's Exhibit D-1 was entered and received into the record. Employer's Exhibit 1 was entered and received into the record.

ISSUES:

Did the claimant file a timely appeal?

Did the claimant voluntarily quit by not asking for additional work assignments within three business days of the end of the last assignment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at the CF Industries plant in Port Neal, Iowa as a loss prevention coordinator. She began on July 27, 2016 and her assignment ended on November 30, 2016 when she was notified by CF Industries that she was no longer needed. The claimant had been given and signed a copy of the employee agreement. The agreement provides in part: "I Understand I must contact Adventure Staffing...within three (3) business days of completion of each employment assignment to request additional work." (See Employer's Exhibit 1) The agreement specifically requires the claimant to request additional work. On November 30, the claimant sent an e-mail to the employer that said in total: "I formerly notify you this is my last day. Please acknowledge." It was signed Debbie Fields. (see Department's Exhibit D-1) In her e-mail the claimant did not ask the employer for additional work.

The claimant had a telephone conversation with Ms. Dick on November 30. She did not ask Ms. Dick for more work, she just told her she was packed and ready to go back to Louisiana as she had not been home since 2014.

The claimant's appeal was due by December 30, 2016. Her appeal letter was postmarked December 28, 2016.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant's appeal was due by December 30, 2016. Her appeal was postmarked December 28, 2016. The claimant's appeal is timely.

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her 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.

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. In this case, the claimant did not ask for more work in her e-mail, she simply told the employer that her current assignment had ended. The administrative law judge concludes that the claimant did not ask Ms. Dicks or Christine for more work when she spoke to them on the telephone. By the time she spoke to Ms. Dicks the claimant told her she was packed and ready to go home to Louisiana as she had not been there since 2014.

The requirements of the statute are twofold: the employee must notify the employer of the end of an assignment *and* must seek additional work through the temporary agency. As the claimant told Ms. Dicks she was packed and ready to go and did not ask for additional work in her e-mail, the employer concluded that claimant did not want any additional work through their company. The claimant did not seek additional work, therefore, she is considered to have quit the employment. Benefits must be denied.

DECISION:

The December 20, 2016, (reference 01) decision is affirmed. The claimant filed a timely appeal. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs