

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**MAUREEN I RUANE**  
Claimant

**MASTERTON PERSONNEL INC**  
Employer

**APPEAL 15A-UI-04609-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/14/14  
Claimant: Appellant (2R)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 7, 2015, (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on May 27, 2015. The claimant participated. The employer participated through Jim Robertson. Employer Exhibits One through Four were admitted.

**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 reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned at Fox River Mills from November 11, 2014, and last performed work on January 4, 2015.

The claimant was injured on a job assignment in December 2014. She subsequently filed a worker's compensation claim and began calling off work due to pain associated with the injury on December 29, 2014. The claimant did not continue to perform work after January 4, 2015. On January 9, 2015, the claimant presented her employer a doctor's note excusing her from work until January 16, 2015 (Employer Exhibit One). On January 20, 2015, the claimant provided the employer a second doctor's note excusing her from work for another week (Employer Exhibit Two). On January 27, 2015, the claimant provided her employer a doctor's note excusing her from work until further notice (Employer Exhibit Three). The assignment was ended as a result, and the claimant was notified by Shannon on January 28, 2015. On May 6, 2015, the claimant returned to the employer with a doctor's note releasing her from care and permitting her return to work (Employer Exhibit Four.) The claimant talked with Christy on site, and requested a new assignment on that day. Christy told the claimant no further assignments were available at the time but she would be called if one became available. The employer did not present a policy that complies with the specific terms of Iowa Code § 96.5(1)j.

The administrative records reflect the claimant filed weekly claims during the period for which she was under physician care, and no initial determination on the issue of able/available has been made at this time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was with 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. 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 § 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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. The claimant was notified that her assignment ended on January 28, 2015 by Shannon. The employer also had medical documentation from the claimant saying she could not perform work at the time. The employer did not separate the claimant after three days of her not requesting a future assignment. The claimant then provided the employer a release from medical care on May 6, 2015. During the same discussion on site with Christy, the claimant requested additional work. Christy told the claimant she had no work in the area available to the claimant and would call if she did have employment available. The claimant contacted the employer after returning from her leave of absence, requested reassignment, and there was no work available; benefits are allowed, provided she is otherwise eligible.

**REMAND:** The able/available issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The April 7, 2015, (reference 01) decision is reversed. The claimant's separation from employment was attributable to the employer. The employer had adequate knowledge about the conclusion of the claimant's assignment and the request for more work but had no further work available at the time. Benefits are allowed, provided the claimant is otherwise eligible. The benefits withheld shall be paid to claimant.

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Jennifer L. Coe  
Administrative Law Judge

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Decision Dated and Mailed

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