

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANTHONY T SHELLHARDT
Claimant

ADECCO USA INC
Employer

APPEAL 17A-UI-04306-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/05/17
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 18, 2017, (reference 01) unemployment insurance decision that denied benefits based upon his voluntarily quit by failing to notify the temporary employment firm within three working days of the completion of his last assignment after having been told in writing of his responsibility to notify the employer. The parties were properly notified of the hearing. A telephone hearing was held on May 11, 2017. The claimant participated and testified. The employer participated through Hearing Representative Thomas Kuiper and Onsite Human Resource Director/Manager Faith Benningfield. Employer's Exhibit 1 was received into evidence.

ISSUE:

Did the claimant quit by not reporting 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: The claimant was last assigned at Google as an operational engineer from September 19, 2016, to January 30, 2017, when he was separated from the assignment, but not employment. Claimant was notified by Onsite Manager Benjamin Dos that his assignment with Google was being terminated.

When claimant was hired by the employer he was given a copy of their Iowa Mandatory Contact Notice. (Exhibit 1). This policy provides that when an assignment is completed an employee must contact their representative with the employer within three working days, or they are considered a voluntary quit. Benningfield testified that Dos was not claimant's representative and would not have information about possible new assignments. Claimant testified he did not call his representative because he was confused about the situation and thought he had been separated from employment with the employer. Claimant added that he was also confused because he had been separated from, rather than successfully completed, the assignment. Claimant therefore did not follow-up with the employer.

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 lettered paragraph:

(a) "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.

(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 § 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 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 assignment *and* who seeks reassignment.” (Emphasis supplied.)

In this case, the employer had notice of the claimant’s availability because it notified him of the end of the assignment. However, the individual who notified claimant that his assignment was ending was not the same individual who had information for claimant about additional assignments. Claimant did not contact the employer for assignment. Claimant testified this was because he was confused by the situation and believed he had been terminated from the assignment and from the employer. Generally, when an individual mistakenly believes they are discharged from employment, but are not told so by the employer, and they discontinue reporting for work, the separation is considered a quit without good cause attributable to the employer. *LaGrange v. Iowa Dep’t of Job Serv.*, (No. 4-209/83-1081, Iowa Ct. App. filed June 26, 1984). Since claimant did not follow up with the employer, and his assumption of having been fired from the employer was erroneous, the failure to continue reporting for additional assignments is considered a voluntary quit. Benefits are denied.

DECISION:

The April 18, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant’s separation was not attributable to the employer. Benefits are withheld until such time as he is otherwise eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

nm/rvs