

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN A FAULHABER
Claimant

APPEAL NO. 11A-UI-06207-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 04/03/11
Claimant: Respondent (4)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment
Iowa Code Section 96.5(1)(g) – Requalification

STATEMENT OF THE CASE:

The employer filed a timely appeal from the May 5, 2011, reference 03, decision that allowed benefits in connection with a September 15, 2010 separation. After due notice was issued, a hearing was held on June 7, 2011. Claimant participated. Chad Baker, Worker's Compensation Administrator, represented the employer and presented additional testimony through Account Coordinator Shelby Kingery. Exhibit One was received into evidence.

ISSUE:

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Steven Faulhaber performed work for L A Leasing/Sedona Staffing in a full-time, temporary work assignment from August 18, 2010 until September 15, 2010, when he completed the assignment. Mr. Faulhaber's workdays in the assignment had been Monday through Friday. Abby Schuler, of the Sedona Staffing office in Maquoketa, notified Mr. Faulhaber on Wednesday, September 15 that the assignment was ending. On Friday, September 24, 2010, Mr. Faulhaber went to the Sedona Staffing to collect a paycheck and at that time asked about an additional assignment.

On August 5, 2010, the employer had Mr. Faulhaber execute an Availability Statement that addressed his obligation to contact the employer within three working days of the end of an assignment to request a new assignment. The policy was set forth on a separate document and contained a clear, concise statement of the end-of-assignment notice requirement. The policy warned that Mr. Faulhaber would be deemed to have voluntarily quit if he failed to make timely contact and warned that failure to make timely contact could have an adverse affect on his unemployment insurance benefit eligibility. Mr. Faulhaber signed the policy and received a copy.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 section 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 section 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 employer's end-of-assignment notice requirement satisfies the requirements of the statute. In addition, the evidence indicates that the employer had Mr. Faulhaber sign the policy and provided him with a copy of the policy. Thus, Mr. Faulhaber was subject to the requirement that he contact the employer within three working days to request an additional assignment. The weight of the evidence indicates that Mr. Faulhaber did not make contact with the employer to request additional work until Friday, September 24, 2010. That was seven working days after the assignment had ended.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Faulhaber's September 15, 2010 separation from the temporary employment agency was not for good cause attributable to the temporary employment agency. The employer's account will not be charged for benefits paid to Mr. Faulhaber. Upon separating from Sedona Staffing, Mr. Faulhaber was disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Workforce Development records indicate that after separating from Sedona Staffing and before filing the claim for benefits that was effective April 3, 2011, Mr. Faulhaber requalified for benefits by earning 10 times his weekly benefit amount through additional insured work. Thus, Mr. Faulhaber remains eligible for benefits in connection with the claim effective April 3, 2011, provided he is otherwise eligible. See Iowa Code section 96.5(1)(g).

Because the claimant had requalified for benefits prior to establishing the claim for benefits in question, there is no overpayment to be addressed as part of this decision concerning the September 15, 2010 separation.

DECISION:

The Agency representative's May 5, 2011, reference 03, decision is modified. The claimant's September 15, 2010 separation from the temporary employment agency was a voluntary quit without good cause attributable to the temporary employment agency. The employer's account will not be charged. The claimant was disqualified for benefits until he had worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he was

otherwise eligible. The claimant requalified for benefits prior to filing his claim. The claimant is eligible for benefits in connection with the claim effective April 3, 2011, provide he is otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css