

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JAMAL A ADAM
Claimant

APPEAL NO. 19A-UI-04450-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AUREUS MEDICAL GROUP
Employer

OC: 05/05/19
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

Jamal Adam filed a timely appeal from the May 29, 2019, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on the deputy's conclusion that Mr. Adam voluntarily quit on April 27, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was started on June 26, 2019 and completed on June 27, 2019. Mr. Adam participated. Dan Dickmeyer represented the employer. Exhibits 1 and 2 were 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: Aureus Medical Group is a temporary employment firm that provides temporary medical support staff to healthcare facilities. Jamal Adam established his employment relationship with Aureus in January 2019. At that time, Mr. Adam commenced a full-time temporary work assignment as an EEG Technician at the University of Missouri Hospital in Columbia, Missouri. Mr. Adam's permanent residence is in West Des Moines. Mr. Adam temporarily relocated to Columbia, Missouri during the time of the assignment. Mr. Adam completed the assignment on April 27, 2019. Before the assignment came to an end, Mr. Adam was in communication with an Aureus representative regarding whether the assignment might be extended beyond the April 27, 2019 end of contract date. The University of Missouri Hospital declined to extend the assignment. Mr. Adam did not ask Aureus for a new assignment. At about the time the assignment came to an end, Mr. Adam spoke with an Aureus representative about his plan to take some time off from work and to then travel to Sudan. Mr. Adam had purchased a plane ticket and was set to depart for Sudan on July 1, 2019. After the assignment ended, Mr. Adam's next contact with the employer was on May 17, 2019, when he contacted the employer to inquire about his pay. Mr. Adam did not at that time ask for a new assignment.

In January 2019, Aureus had Mr. Adam sign a nine-page contract that included the following paragraph

I understand that I am an employee of Aureus working on temporary assignment, whether the assignments are for four hours, up to 13 weeks or longer, or for an indefinite time frame. I am not an employee of Aureus' Client. I agree that working for Aureus requires accepting assignments at a variety of locations, possibly nationwide. I also understand that the entire United States is my labor market. I understand that working for Aureus requires accepting a variety of shifts and at various hourly pay rates. Upon completing an assignment I agree to contact Aureus immediately to request re-assignment and I understand that my failure to do so, and to call in at least weekly thereafter, will be considered a voluntary quit without cause and I further understand I may be denied unemployment benefits for my failure to do so. I recognize Aureus' ability to provide me with work in the future may require Aureus to present me for consideration by its clients and to be interviewed by them. As such, I agree that my refusal to be presented for consideration or interviewed by a client establishes that I have voluntarily quit my employment with Aureus without cause and that I may be denied unemployment.

The employer did not have Mr. Adam sign any other documentation regarding his obligation to contact the employer upon completion of an assignment to request a new one.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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 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 evidence in the record establishes an April 27, 2019 separation that was for good cause attributable to the temporary employment firm. The above quoted policy does not comply with the notice requirements set forth in Iowa Code section 96.5(1)(j). Rather than present a clear and concise end-of-assignment policy statement in a stand-alone document read and signed by Mr. Adam, the employer elected to embed the policy statement in a nine-page, small-font, boilerplate employment contract. Because the employer failed to comply with the requirements set forth at Iowa Code section 96.5(1)(j), the employer cannot claim the benefits of that subsection of the statute. Mr. Adam fulfilled the contract of hire, for purposes of determining his unemployment insurance benefit eligibility on the Iowa claim, when he completed the temporary work assignment on April 27, 2019. For purposes of determining his eligibility for unemployment insurance benefits on the Iowa claim, after Mr. Adam completed the assignment he was under no obligation to pursue further employment through the employer. Mr. Adam is eligible for benefits provided he meets all other eligibility requirements. The employer's account may be charged for benefits.

DECISION:

The May 29, 2019, reference 01, decision is reversed. The claimant's April 27, 2019 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

This matter is remanded to the Benefits Bureau for determination of whether the claimant has been available for work within the meaning of the law since he established his claim for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs