

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JAMES D WYLIE
Claimant

**L A LEASING INC
SEDONA GROUP**
Employer

APPEAL 15A-UI-03404-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/15/15
Claimant: Appellant (1)**

Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 6, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 22, 2015. Claimant participated. Employer participated through (representative) Colleen McGuinty, and Shelby Kingery, Branch Manager and Kelly Weaver, Account Manager. Claimant Exhibits A was entered and received into the record.

ISSUE:

Is the claimant deemed to have voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work full time at Custom Pak. He believed he suffered an on-the-job injury at Custom Pak and filed a first report of injury with the employer on January 26. The claimant saw his own physician who took him off work at Custom Pak. The employer had the claimant perform light duty office work in their office while they waited for him to be evaluated by their physician. The claimant saw the employer's physician on February 12, who determined that the claimant had a rare skin disease called bullous pemphigoid which is not a work related condition.

On February 13 the claimant was told he would need to go back to his own doctor and get a release to return to work since the employer's physician had determined it was not a work related illness or injury. The claimant told the employer he could not get back to see his doctor until March 4. Ms. Weaver specifically told the claimant that after he had seen his physician on March 4 and received the release to come back and the employer would put him back to work. The claimant never returned to ask for additional work from the employer despite being told he could once he received the release to return to work from his physician.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left 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. 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 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 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 employer made it clear to the claimant that they would give him until after his March 4 doctor appointment to come back to them for additional work. The employer never told the claimant he was discharged or that they would not provide him with additional work. The claimant simply assumed that he was not going to be given any additional work when he received the agency representative decision denying his unemployment insurance benefits. The claimant gave the employer no notice of his availability after his March 4 doctor appointment and, therefore, is considered to have quit the employment, even though claimant may have returned to work for the temporary agency at some later date. Benefits are denied.

DECISION:

The March 6, 2015 (reference 01) decision is affirmed. 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 his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs