

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

LAMONT C HARPER SR
Claimant

APPEAL NO. 18A-UI-06337-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 10/01/17
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Lamont Harper, Sr., filed an appeal from the June 1, 2018, reference 02, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Mr. Harper voluntarily quit on May 4, 2018 without good cause attributable to the employer by failing to notify the temporary employment firm within three working days of completing an assignment after being advised in writing of his obligation to make such contact. After due notice was issued, a hearing was held on June 26, 2018. Mr. Harper participated the employer provided written notice that the employer waived its participation in the appeal hearing. Exhibits A and B were received into evidence

ISSUE:

Whether the claimant's May 4, 2018 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: Lamont Harper, Sr., commenced his employment with QPS Employment Group, Inc. in October 2017. At that time, Mr. Harper started a temporary work assignment washing dishes at North Iowa Area Community College (NIACC). The assignment generally provided part-time work hours, but sometimes provided full-time work hours. Mr. Harper generally worked seven days per week. Mr. Harper completed the assignment on Friday, May 4, 2018. That date corresponded with the end of the spring semester at NIACC. Mr. Harper had at that point completed all the work that NIACC and QPS had for him in the assignment. On Monday, May 7, 2018, Mr. Harper sent a text message to QPS and asked to be put on the recall list for NIACC so that he could potentially start a new assignment at NIACC in August 2018. Also on May 7, 2018, Mr. Harper went to the QPS office. While there, Mr. Harper again asked to be placed on the recall list for NIACC and asked whether QPS had any other work for him. A QPS representative told Mr. Harper that no other assignments were available at that time and to check back in the future.

Mr. Harper thinks he signed an end-of-assignment notification policy at the start of the QPS employment. Mr. Harper did not read the policy, unsure what the written policy said, and is unsure whether he received a copy of the policy he signed.

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 a May 4, 2018 separation that was for good cause attributable to QPS, the temporary employment firm. Mr. Harper completed an assignment on Friday, May 4, 2018, contacted QPS on Monday, May 7, 2018 to request a new assignment, but the employer did not have another assignment for him at that time. The employer waived its participation in the appeal hearing and presented no evidence to establish that the employer complied with the requirements set forth at Iowa Code Section 96.5(1)(j). The evidence in the record fails to establish employer compliance with the statute. Accordingly, the statute cannot serve as a basis for disqualifying Mr. Harper for unemployment insurance benefits. Mr. Harper fulfilled his contract of hire on May 4, 2018 when he completed the assignment and thereafter was under no obligation to seek further work through the temporary employment agency. Mr. Harper is eligible for benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

DECISION:

The June 1, 2018, reference 02, decision is reversed. The claimant's May 4, 2018 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.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs