

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

IVORY JONES
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 21A-UI-13222-DZ-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 08/09/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

Ivory Jones the claimant/appellant, filed an appeal from the May 25, 2021, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on August 10, 2021. Mr. Jones participated and testified. The employer participated through Sarah Fiedler, risk manager. Employer's Exhibit 1 was admitted into evidence.

ISSUE:

Was Mr. Jones discharged for disqualifying job-related misconduct or did he quit by not reporting for an additional work assignment 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: Mr. Jones began working for the employer on December 14, 2020. He worked as a full-time shipping and receiving clerk on assignment to Timberline Manufacturing.

The employer's policy requires employees to contact the employer within three working days after their assignment ends to request a new assignment or the person will be considered to have voluntarily quit. Mr. Jones acknowledged receiving the policy on December 10, 2020. The employer's policy also provides that employees are to follow the attendance policy of the company at which they are assigned to work. Timberline Manufacturing's attendance policy provides that employees are allowed to miss work four times after which the employee is subject to discipline.

From his hire date through March 31, 2021, Mr. Jones was absent from work fifteen times for a variety of reasons, including car issues, lack of childcare, bad weather and having to attend court proceedings. Mr. Jones was issued verbal warnings on January 5 and January 14.

On March 31, Timberline informed the employer that they wanted to let Mr. Jones go from the assignment at Timberline. That day, the employer sent Mr. Jones a text message and left him a voice message telling him that his assignment at Timberline was over, effective immediately, and asking him to call back if he had questions. The employer did not give Mr. Jones a reason for ending his assignment at Timberline. Mr. Jones assumed it was for excessive, unexcused absences.

Mr. Jones did not contact the employer because he did not think he would be able to get another assignment due to his attendance issues.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Jones' separation from the employment was 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(15) 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:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

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."

In this case, Mr. Jones did not notify the employer of his availability, or request another assignment according to the employer's reporting policy and, therefore, is considered to have quit the employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The May 25, 2021, (reference 02) unemployment insurance decision is affirmed. Mr. Jones is considered to have voluntarily quit without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided she is otherwise eligible.



Daniel Zeno
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August 30, 2021
Decision Dated and Mailed

dz/mh