

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARK MAUK
Claimant

TEMP ASSOCIATES-IOWA INC
Employer

APPEAL NO. 19A-UI-09468-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/06/19
Claimant: Appellant (2)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 12, 2019, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 24, 2019. Claimant participated personally. Employer participated by Judy Broyles.

ISSUE:

Did the claimant quit by not requesting an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant had a unique situation in his employment with employer. He was recruited by the placement – Emerson Controls – to apply at Temp Associates such that he could be placed for a specific position with Emerson. Claimant was paid \$50.00 / hour for his work throughout his employment. Claimant worked at that position for over two years. In September, 2019 Emerson chose to end the contract that placed claimant with them.

Claimant went to employer the day after his placement ended and asked about unemployment. Employer and claimant spoke about other openings as an administrative assistant paying far less than claimant had made the entire time he worked for employer. Employer had no positions that fit claimant's skill set or experience, and continues to not have any work within claimant's skill set.

Employer did not provide documentation that claimant signed a notice in accordance with Iowa Code section 96.5(1)j, whereby claimant would have known that he needed to both come to employer within three days of the ending of an assignment and request a new placement.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

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.

Here, claimant was employed for a very particularized position from which he was removed. Employer did not offer claimant more employment that utilized claimant's skill set when claimant came by employer's office looking for work or guidance on unemployment. Employer stated that at no point have they had a position suitable for claimant. Additionally, employer provided no evidence that it presented claimant with a written copy of the reporting policy wherein a claimant is to specifically ask for a new placement and be denied placement prior to applying for unemployment. The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since he contacted the employer within three working days of the notification of the end of the assignment, requested work if employer had any that fit his skills, and there was no work available, benefits are allowed, provided he is otherwise eligible.

DECISION:

The November 12, 2019, (reference 03) decision is reversed. The claimant's separation from employment was attributable to the employer. The employer had adequate knowledge about the conclusion of the claimant's assignment and the request for more work but had no further appropriate work available at the time. Benefits are allowed, provided the claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn