

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DARYL C EALY**  
Claimant

**TEAM STAFFING SOLUTIONS INC**  
Employer

**APPEAL 19A-UI-07454-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/18/19  
Claimant: Appellant (2)**

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Iowa Code § 96.5(1)J – VQ – Temporary employment firm

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the September 12, 2019 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 14, 2019, at 3:00 p.m. Claimant participated. Employer participated through Sarah Fiedler and Casey Nickel. Claimant's Exhibit A was admitted.

**ISSUE:**

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's only assignment with Team Staffing Solutions, Inc., a temporary employment firm, was as a full-time general laborer with Siemens from May 10, 2018 until his assignment ended on May 2, 2019. (Fiedler Testimony)

On May 2, 2019, employer informed claimant that his assignment at Siemens ended that day. (Fiedler Testimony) Claimant met with Casey Nickel, Account Manager, at employer's local office on May 2, 2019 and sought reassignment. (Nickel Testimony) Nickel informed claimant of other assignments that were available to claimant. (Nickel Testimony) The available assignments had an hourly wage of \$10.00 - \$12.00. (Nickel Testimony) Claimant declined these assignments because the hourly wages were substantially less than the \$18.00 per hour claimant earned at Siemens. (Claimant Testimony) Claimant told Nickel that he would focus on remodeling his house and get back to employer later. (Nickel Testimony)

Claimant was advised in writing of his duty to notify the employer within three days of completion of an assignment and to request a new assignment. (Fiedler Testimony) Claimant received a copy of the three-day notice requirement. (Fiedler Testimony)

Claimant was out of state due to a family emergency since filing his original claim. (Exhibit A) There has been no initial investigation and determination regarding whether claimant was able to and available for work. The question of whether claimant was able to and available for work will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant is not disqualified from receiving benefits. Benefits are allowed provided claimant is otherwise eligible.

Iowa Code section 96.5(1)(j) provides:

An individual shall be disqualified for benefits

1. 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.

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 claimant has the burden of proving that a voluntary quit was for good cause attributable to the employer. *Id.* at § 96.6(2).

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the claimant's testimony credible that his reason for declining the assignments on May 2, 2019 was the substantial difference in hourly wage. Claimant sought reassignment to a position in the same pay range as his last assignment and would have accepted such an assignment if available. Employer only had assignments available at a significantly lower pay range. Claimant declined the available assignments due to the difference in the rate of pay. Claimant was not required to accept the assignments that were offered at 55% - 66% of his prior wage.

Claimant was a temporary employee of a temporary employment firm who notified the firm of completion of an assignment and sought reassignment; therefore, claimant satisfied the requirements of Iowa Code section 96.5(1)j. Claimant is not disqualified from receiving benefits. Benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The September 12, 2019 (reference 01) unemployment insurance decision is reversed. Benefits are allowed provided claimant is otherwise eligible.

**REMAND:**

The issue of claimant's ability to and availability for work is remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.

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Adrienne C. Williamson  
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Decision Dated and Mailed

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