

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELISSA D KUHSE
Claimant

TEMP ASSOCIATES – BURLINGTON INC
Employer

APPEAL 16A-UI-12342-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/23/16
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the November 14, 2016, (reference 02) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 6, 2016. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through account manager Jane Brown. Employer's Exhibit 1 was received.

ISSUE:

Did claimant quit by not reporting for additional work assignments 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: Claimant was employed as a full-time laborer assigned at Skyline through September 19, 2016. She was laid off from the assignment but not from the employer. Branch manager Sue Watkins notified her of the separation. Told may return later if they work on their attendance. Told to look at the job board and let them know if she was interested in another assignment within 72 hours. Claimant did not communicate with the employer until October 21, 2016, well after the three working days as required by written policy. (Employer's Exhibit 1) She has not requalified for benefits and had not been paid benefits on this claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code section 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 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.

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." (Emphasis supplied.)

In this case, the employer had notice of the claimant's availability because it notified her of the end of the assignment but she did not request another assignment. Therefore, she is considered to have quit the employment without good cause attributable to the employer.

DECISION:

The November 14, 2016, (reference 02) unemployment insurance decision is reversed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time

as she works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible. Since no benefits were paid for the two weeks claimed, no overpayment is established.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs