

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ULISES LAGUNAS

Claimant

APPEAL NO. 17A-UI-01887-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOHERTY STAFFING SOLUTIONS

Employer

OC: 01/15/17

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 February 16, 2017, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 13, 2017. Claimant participated personally. Claimant participated personally and with witness Agustin Martinez. Employer participated by Kim Johnson and Glenda Niemiec.

ISSUE:

Did the claimant 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: The claimant was employed full-time last assigned at Polaris from September, 2015, and was separated from the assignment, but not the employment, on February 16, 2017. Claimant was laid off as a part of a slower production schedule.

At the time the employer notified the claimant that the assignment had ended, claimant and his witness both stated employer also advised the claimant that there were no additional assignments available. Both claimant and employer stated that claimant did request placement in a new assignment - claimant stated that it was an open-ended request and employer stated that claimant's request was solely for another assignment with Polaris. Employer stated that at the time of employment claimant was provided a document stating that claimant must request a new assignment within three days of the completion of his past assignment.

Claimant stated that he and his witness heard the conversation with employer at the time of the job separation. Claimant's witness stated that claimant did ask for an open ended placement and employer stated that there were no openings.

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 § 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 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 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 was contacted the employer regarding the end of the assignment, requested reassignment, and there was no work available, benefits are allowed, provided he is otherwise eligible.

Even if claimant is seen to have only requested reassignment with Polaris, employer was made aware of claimant's desire for additional work. Employer showed that it still was considering claimant for other jobs as employer did call claimant for other employment opportunities. As this is the case, claimant is deemed to have requested additional employment such that he has not voluntarily quit his job.

DECISION:

The decision of the representative dated February 16, 2017, reference 03, is reversed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/rvs