

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

WILLIAM F LOOMIS
Claimant

APPEAL NO. 11A-UI-10723-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 07/03/11
Claimant: Appellant (2)

Section 96.5-1-j – Sought Reassignment from Temporary Employer

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated August 9, 2011, reference 01, which denied unemployment insurance benefits, finding the claimant voluntarily quit employment and failed to notify the temporary employment firm within three working days. After due notice was issued, a telephone hearing was held on September 7, 2011. The claimant participated personally. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

ISSUE:

At issue is whether the claimant voluntarily left employment and whether the claimant contacted the temporary employer within three working days after the completion of his most recent temporary assignment.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: William Loomis was most recently employed by Aventure Staffing from October 2010 until December 24, 2010, when his temporary assignment at the Staples Company came to an end. Mr. Loomis was working as a temporary picker and was being paid by the hour.

On December 24, 2010, the claimant was informed by Aventure Staffing that his assignment at Staples had ended. The claimant at that time conferred with Ms. Martin, his contact person at Aventure Staffing, and was told that no additional work assignments were available at that time. Mr. Loomis informed the temporary staffing service of his availability when told that the most recent assignment had ended.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntarily leave 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. 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.

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.

For the purposes of this paragraph:

(1) "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.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

871 IAC 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 work at the conclusion of each temporary assignment so they may be assigned and continue working. In this case, the claimant was informed by the temporary employer that the assignment had ended and the claimant requested an additional assignment at that time but was told that there were no assignments available. Therefore, the claimant complied with the requirements of the law by contacting the temporary employer within three working days. The employer had notice of the claimant's availability, because they notified the claimant of the end of the assignment and that no other assignments were available. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated August 9, 2011, reference 01, is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the temporary employer about his availability as required by the statute. Benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw