

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALECIA K KNIGHT
Claimant

APPEAL NO. 09A-UI-08520-E2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADECCO USA INC
Employer

**Original Claim: 04/19/09
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 5, 2009, reference 01, decision that awarded benefits. After due notice was issued, a telephone conference hearing was held on June 30, 2009. The claimant did participate. The employer participated through Marcia Heck and was represented by Jeff Scher.

ISSUE:

The issue is whether the claimant voluntarily quit or did not seek reassignment of work from a temporary agency.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a clerk at The Iowa Clinic on a temporary basis. The employer is a temporary agency. The claimant was informed by her supervisor at the Iowa Clinic on January 19, 2009 that they no longer needed her. The supervisor at The Iowa Clinic stated that Marsha Heck, of Adecco, told him to let the claimant know that Adecco was going to contact her about new job openings. The employer did contact the claimant about a new job opening on January 20, 2009. This resulted in a job interview for the claimant but no job. The claimant's assignment ended and the claimant spoke to her employer within three business days of the end of her assignment.

The claimant was provided information about her obligations to report to work at the time of her hire. Exhibit 1, page 6. It is not clear that the claimant received a copy of this document. The document in addition to providing information on the requirements to report after an assignment has ended contains other employment terms.

REASONING AND CONCLUSIONS OF LAW:

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. 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 § 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 § 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 reassigned and continue working. Before applying the statute, an examination of the facts is required to determine if the employer and claimant meet the definitions under the statute. The employer to be covered must be a "temporary employment firm." Iowa Code § 96.5-1-j(2). A temporary employment firm is defined as a person engaged in the business of hiring temporary employees. A "temporary employees" is defined as: "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." Iowa Code § 96.5-1-j(1).

The law requires "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 Code § 96.5-1-j. The employer did not provide convincing evidence the claimant received this document. The document also does not comply with Iowa law. The document does not comply with this section because it is not clear and contains contract terms that are not part of the notice to report after the end of an assignment. The lack of clarity is the fact the form refers to a two-day notice to report in two different places and only explains in one place that for Iowa the requirement is three days. The claimant reported within one business day of the end of her assignment.

DECISION:

The June 5, 2009, reference 01, decision is affirmed. The claimant did not quit. She completed her assignment and promptly sought additional work. The claimant is eligible to receive unemployment insurance benefits, provided she meets all other eligibility requirements.

James Elliott
Administrative Law Judge

Decision Dated and Mailed

jfe/kjw