

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KIMBERLY MORRIS**  
Claimant

**APPEAL NO. 07A-UI-00081-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING  
SEDONA STAFFING**  
Employer

**OC: 09-10-06 R: 04  
Claimant: Appellant (2)**

Section 96.5-1-j – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the December 21, 2006, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on January 22, 2007. The claimant did participate. The employer did participate through (representative) Colleen McGuinty, Unemployment Benefits Administrator, Brenda Lampe, Account Manager and Lori Susie, Branch Manager.

**ISSUE:**

Was the claimant discharged for work-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was assigned to work at Ashford University as an online enrollment advisor beginning on October 2, 2006 through November 17, 2006 when she was discharged. The claimant was told she was being discharged for not meeting quotas. The claimant had not received any warning about her quotas and did not know her job was in jeopardy.

Prior to her discharge the claimant had voiced her concerns that she did not like the job and she did not believe she was a good fit for the job. When told that there were no other assignments available for her, the claimant remained on the job rather than go without work.

On the night of Thursday November 16 after her shift had ended the claimant called her supervisor and told him she would not be in the next day because her child was sick and she was going to have to take him to the doctor.

The claimant was called on Friday and told she was discharged. She had no previous warning about her attendance. The claimant was told that she could pick up her belongings at the employer's office but she was not to return to the job site. The claimant went into the employer's place of business on November 22 to pick up her check and her personal belongings. When she had not received another assignment by early December the claimant

called the employer to inquire why she was not being placed anywhere for work. She was told that she needed to sign up again, which she promptly did. The claimant assumed the employer knew she needed another assignment since they had discharged her from her previous one.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with 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 the temporary assignment. In this case, the employer had notice of the claimant's availability because they notified her of the end of the assignment and that no other assignments were available for her.

The claimant may have been unhappy in the job, but that does not establish that she quit. The evidence establishes that the claimant was discharged. The employer's allegation that the claimant took Friday November 17 off to interview for another position has not been established. The employer knew the claimant was unhappy and she had asked for a different assignment prior to her discharge, indicating her desire for additional work. Benefits are allowed.

**DECISION:**

The December 21, 2006, reference 03, decision is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs