

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JON M SUTTON**  
Claimant

**APPEAL NO. 15A-UI-06871-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INC OF D M**  
Employer

**OC: 05/17/15**  
**Claimant: Respondent (1)**

871 IAC 24.26(19) and (22) – Fulfillment of the Contract of Hire

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the June 9, 2015, reference 02, decision that allowed benefits to the claimant, provided he was otherwise eligible and that held the employer's account could be charged for benefits, based on an Agency conclusion that the claimant had separated from Manpower on April 6, 2015 for good cause attributable to the employer upon completion of the contract of hire. After due notice was issued, a hearing was held on July 21, 2015. Claimant Jon Sutton participated. Theresa Bullock, Branch Manager, represented the employer. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant.

**ISSUE:**

Whether the claimant's April 6, 2015 separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Manpower Inc., of Des Moines is a temporary employment agency. Jon Sutton most recently performed work for Manpower in a one-day assignment on April 6, 2015. Mr. Sutton completed the assignment. Mr. Sutton next communicated with Manpower on April 20, 2015, when he contacted the Ames office for additional work and was referred to the employer's Fort Dodge office.

On April 16, 2014, the employer had Mr. Sutton sign an availability statement. The statement said that Mr. Sutton had to contact the employer within 48 hours of completion of an assignment to indicate that he was available for additional work. The document said that Mr. Sutton then had to make weekly contact with the employer and that if he did not, the employer would conclude that he had voluntarily quit. The document then referred to Iowa statutory law and indicated that failure to contact the employer at the end of an assignment could result in denial of unemployment insurance benefits. The employer did not provide Mr. Sutton with a copy of the availability statement after having Mr. Sutton sign it.

**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.

Iowa Admin. Code r. 871-24.26(19) and (22) 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.

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. 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 employees shall be considered to have voluntarily quit employment.

The evidence in the record indicates that the employer did not comply with the requirements of Iowa Code section 96.5(1)(j) and, therefore, cannot rely on that statute to argue disqualification for benefits. The employer did not provide a copy of the availability statement for the appeal hearing. The employer read the availability statement into the record. The availability statement contained contradictory information concerning a 48 hours reporting deadline and reference to the Iowa law, which sets for a requirement that claimant's contact the temporary employment agency within three working days of the end of an assignment. Given the conflicting information, the administrative law judge concludes that the employer did not comply with the requirement that the employer provide a clear and concise statement of the end of assignment notification requirement. In addition, the employer did not provide Mr. Sutton with a copy of the policy the employer had him sign. In that respect also, the employer failed to comply with the requirement of the statute. Given the employer's failure to comply with the requirements of the statute, Mr. Sutton fulfilled his contract of hire and completed his obligation to the employer, by completing the one-day assignment on April 6, 2015. Mr. Sutton's April 6, 2015 separation from the employer was for good cause attributable to the employer. Mr. Sutton is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

**DECISION:**

The Agency representative's June 9, 2015, reference 02, decision is affirmed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs