

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY M OLSON
Claimant

APPEAL NO. 08A-UI-00651-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 10-07-07 R: 04
Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 10, 2008, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on February 21, 2008. The claimant did participate along with his witnesses Larry Kelly of Clinton Engineering. The employer did participate through Dawn Fulton, Account Manager and Brenda Lampe, Account Manger.

ISSUE:

Did the claimant seek reassignment from the temporary employer within three days of the completion of an assignment?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work at Clinton Engineering beginning on August 13, 2007 through August 16, 2007 when he was discharged for poor performance.

On Thursday August 16 someone from Clinton Engineering notified Brenda Lampe of Sedona Staffing that the claimant's assignment was being ended due to his poor job performance. On that same day Ms. Lampe called the claimant on his cell phone and left him a message not to report to Clinton Engineering on Friday but instead to report to the Sedona Staffing office. The claimant received the message and reported to the Sedona office on Friday where he was told that his assignment at Clinton Engineering had ended due to poor job performance. The claimant inquired about retrieving his tools and also asked if any other assignments or work was available for him. The claimant was told no other assignments or work was available for him and that the employer would retrieve his tools from the plant for him. The claimant did not sign the employer's log book, but the employer admits he was present in their office on Friday August 17, 2007.

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 § 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 claimant was told by Brenda Lampe, a Sedona employee that his assignment had ended. The administrative law judge finds credible the claimant's testimony that he asked for another work assignment when he was in the Sedona office on Friday August 17. Nothing in the law requires the claimant sign a log book, only that he notify the employer of his availability for work, which he did. 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 him of the end of the assignment. Benefits are allowed.

DECISION:

The January 10, 2008, 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 his availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs