

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OSVALDO LOPEZ
Claimant

APPEAL NO. 10A-UI-17155-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

OC: 11/07/10
Claimant: Appellant (1)

Section 96.5-1-j – Separation From Temporary Employment Services

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated December 13, 2010, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on January 24, 2011. The claimant participated. The employer participated by Jennifer Starr, account manager. The record consists of the testimony of Jennifer Starr and the testimony of Osvaldo Lopez. Isabel Serrandies served as Spanish interpreter.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency. The claimant applied for temporary work assignments with the employer. On August 19, 2009, the claimant went through orientation. He signed a separate form which stated that if he failed to request another assignment within three working days after an assignment ended, he would be considered a voluntary quit.

The claimant was given an assignment at West Liberty Foods. He began this assignment on August 24, 2009. The assignment ended on November 6, 2009, due to lack of work. The employer attempted to contact the claimant. The phone number he had given the employer was no longer in service. The claimant did find out from West Liberty Foods directly that his assignment had ended. The claimant did not contact the employer until November 20, 2009. He asked for his paycheck. The parties dispute whether the claimant requested another assignment.

REASONING AND CONCLUSIONS OF LAW:

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 evidence in this case established that the claimant's temporary assignment came to an end on November 6, 2009. The claimant thought the assignment might have ended on November 14, 2009. He testified that he did not remember the exact date. Regardless of whether the assignment ended on November 6, 2009, or November 14, 2009, the claimant did not request another assignment within three working days of the end of the assignment. The only contact the employer had with the claimant after the assignment at West Liberty Foods ended was on November 20, 2009. The parties dispute whether the claimant asked for another assignment at that time. Even if he did, he did not make this request within three working days of the end of the assignment. The employer complied with Iowa law on separation from temporary employment. Since the claimant did not request another assignment in a timely manner, he is considered to have voluntarily quit his job. Benefits are denied.

DECISION:

The representative's decision dated December 13, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw