IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

PAMMY S LIBBERT Claimant **AEROTEK INC** Employer	**APPEAL 20A-UI-00871-DB-T** **ADMINISTRATIVE LAW JUDGE DECISION** **OC: 10/06/19** **Claimant: Appellant (2)**

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the January 27, 2020 (reference 02) unemployment insurance decision that denied benefits to the claimant based upon her voluntarily quitting employment. The parties were properly notified of the hearing. A telephone hearing was held on February 14, 2020. The claimant, Pammy S. Libbert, participated personally. The employer, Aerotek Inc., did not participate and faxed a letter to the Appeals Bureau on February 12, 2020 stating that it did not wish to participate in the hearing.

ISSUE:

Did the claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a temporary employment firm. She was placed into a full-time temporary position at Legacy Manufacturing. She worked in an accounting position. She began this job placement on December 6, 2019. During her time working at that job placement, she was not properly trained and her co-workers were continuously yelling at each other. She felt uncomfortable on the job. She decided to quit that job placement on December 12, 2019, and notified this employer. The following day, she notified this employer that she wanted an additional job placement. She spoke to Eric and Ally, who agreed to find her additional work. She interviewed for a job placement at Fluid Quip in January but was not offered the position. The employer had no further work available for her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was not disqualifying. Benefits are allowed, provided the claimant is otherwise eligible.

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Iowa Admin. Code r. 871-24.26(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer’s going out of business; blinding snow storm; telephone lines

down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an assignment and who seeks reassignment." Since she contacted the employer on December 13, 2019, which was within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, no disqualification is imposed. As such, the separation is not disqualifying. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The January 27, 2020 (reference 02) unemployment insurance decision is reversed. The claimant's separation was not disqualifying. Benefits are allowed, provided claimant is otherwise eligible.

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Dawn Boucher
Administrative Law Judge

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Decision Dated and Mailed

db/scn