

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALBERT F NEWMAN
Claimant

L A LEASING INC
Employer

APPEAL 14A-UI-08822-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/27/14
Claimant: Respondent (2/R)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the August 15, 2014 (reference 01) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on September 12, 2014. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through unemployment benefits administrator Colleen McGuinty and on-site manager Dennis Leaser. Employer's Exhibit One was received.

ISSUE:

Did the claimant 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: Claimant was employed part time as a laborer assigned at Nordstrom Distribution Center from June 9, 2014 and was separated from employment on July 15, 2014. He had suffered a stroke and was unable to perform the physical job duties. The employer next heard from claimant on August 12. Offers for assignments were made on August 18 and September 5. He was unable to accept due to medical issues. He has not presented a medical release to return to any type of work. After the assignment ended, the claimant failed to report to the employer within three working days and request further assignment as required by written policy (Employer's Exhibit One).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without 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.

Iowa Admin. Code r. 871-24.26(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 each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant “who notifies the temporary employment firm of completion of an employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

In this case, the claimant did notify the employer of the conclusion of the assignment but did not request another assignment and, therefore, is considered to have quit the employment, even though he may have contacted the temporary agency at some later date. Benefits are denied.

DECISION:

The August 15, 2014 (reference 01) unemployment insurance decision is reversed. The claimant’s separation was not attributable to the employer. Benefits are withheld until such time as he works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

REMAND: The medical ability to work issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

REMAND: The overpayment and fact-finding participation issues pursuant to Iowa Code § 96.3(7) and Iowa Admin. Code r. 871-24.10 respectively, although clearly set out on the hearing notice, are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination because claimant did not participate in this hearing that addressed the separation from employment.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

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