

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

REBECCA L FYE
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL NO. 18A-UI-08002-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/01/18
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 18, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 15, 2018. Claimant participated personally. Employer participated by Sarah Fiedler. Employer's Exhibits 1 and 3 were admitted into evidence.

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 heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant's assignment with Doran and Ward was ended on July 2, 2018. Prior to July 2, 2018 claimant had alerted employer and her assignment that she was going to be absent on July 2, 2018, in order to attend the birth of a grandchild.

Claimant had previously been absent from work at Doran and Ward, and the company chose to end claimant's assignment on July 2, 2018. Claimant was contacted by employer who left a message for claimant on July 2, 2018 stating that claimant's assignment had ended as claimant had previously walked out of work in the middle of her shift. Claimant stated that later in the day on July 2, 2018, she returned the call to the agent who'd left the message and requested additional work. Employer had no official notification showing that claimant had returned the call to the agent and requested additional work. Employer did state that the agent dealing with claimant gave no indication that claimant returned her call or requested additional placement on July 2, 2018. Employer stated that at times this might be detailed by an agent, and at other times it might not. Employer included an informational sheet showing contacts with claimant. (Emp. Ex. 1). Said sheet showed a call made by agent to claimant, and a week later it showed that claimant had asked for placement on July 9, 2018.

Employer did not provide the woman to whom claimant allegedly spoke on July 2, 2018, as that woman no longer works for employer. Employer explained that agents may or may not write down notes from every call received and made. Employees can come in to employer's place of business every day and sign in, or they can call in to report their openness on that day for a placement.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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 employer had notice of the claimant’s availability because it notified her of the end of the assignment. Claimant gave testimony that she did call employer later after receiving information that her placement had ended, and spoke with her agent. Claimant stated that the agent said she did not have any additional work. Employer did not choose to be in contact with their former worker who might have contradicted claimant’s testimony. The Iowa Supreme Court has ruled that if a party has the power to produce more explicit and direct evidence than it chooses to present, the administrative law judge may infer that evidence not presented would reveal deficiencies in the party’s case. *Crosser v. Iowa Dep’t of Pub. Safety*, 240 N.W.2d 682 (Iowa 1976). As claimant’s direct statement as to her telling employer of her availability was not controverted by employer, claimant is seen to have followed instructions in requesting additional placement. Benefits are allowed.

DECISION:

The July 18, 2018, (reference 01), unemployment insurance decision is reversed. The claimant’s separation was attributable to the employer. Claimant is eligible to receive unemployment insurance benefits, provided she is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn