

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**DAVID L DILLON**  
Claimant

**QPS EMPLOYMENT GROUP INC**  
Employer

**APPEAL 15A-UI-00504-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/30/14  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 9, 2015 (reference 03 amending reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 3, 2015. Claimant participated. Employer participated through Alisha Siegel Placement Coordinator and (representative) Rhonda Heffer De Santisteban, Human Resources Director.

**ISSUE:**

The issue is whether claimant quit by not reporting for additional work assignments 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 last assigned to work full time at Wal-Mart as an assembler and janitor beginning on May 27, 2014 through October 24, 2014 when his assignment was completed. The claimant called QPS on October 27. Ms. Siegel asked him if he was looking for additional work and he told her that he was not, that he wanted a week off to look for a car. The employer agreed to extend the time the claimant could report back to them for one week. They expected to hear back from the claimant by November 3, 2014, one week later, but did not hear back from the claimant until November 10. By that time more than three business days has passed since the claimant was given his extension to indicate he was able to and available for work. The very next day the employer offered the claimant work at another Wal-Mart store and he turned the assignment down. The claimant had been given and signed a copy of the policy that put him on notice that he was to seek reassignment within three business days of the end of his assignment.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left 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. In this case, the employer gave the claimant an extra week to let them know he was available for work again. The claimant waited two weeks before contacting the employer to indicate he was available and then he turned down a job the very next day. The claimant did not give the employer timely notice of his availability and, therefore, is considered to have quit the employment, even though claimant may have returned to work for the temporary agency at some later date. Benefits are denied.

**DECISION:**

The January 9, 2015 (reference 03 amending reference 02) decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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