

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANTHONY K BENSON**  
Claimant

**PEOPLEREADY INC**  
Employer

**APPEAL 19R-UI-10208-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/20/19**  
**Claimant: Appellant (2R)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant, Anthony K. Benson, filed an appeal from the November 4, 2019 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. A first hearing was scheduled between the parties on December 3, 2019. The claimant/appellant failed to appear at the hearing, and the appeal was dismissed. Upon a remand decision from the Employment Appeal Board, the appellant’s request to reopen the hearing was granted. Notice of the second hearing was mailed to the parties’ last known addresses of record for a telephone hearing to be held at 8:00 a.m. on January 22, 2020. The parties were properly notified about the hearing. The claimant participated personally. The employer, Peopleready Inc., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**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: The claimant was assigned as a merchandiser for Diamond Contractors Inc. (Claimant exhibit A). The employer ended the assignment on October 18, 2019. The claimant did request placement in a new assignment and called Julia, who works for the employer.

The employer does not have a policy that complies with the specific terms of Iowa Code § 96.5(1)j. The employer relies upon an app called Job Stack which allows employees to look for new assignments. The claimant does not have access to the app by the employer and is

required to wait for text messages of job alerts. No assignment was offered to the claimant until November 1, 2019 (Claimant Exhibit A).

The claimant is currently working part-time on assignment and for the week ending January 25, 2020, worked on assignment at Dillards. The claimant also stated he has to restrict his acceptance of assignments based upon limited transportation. The issues of whether the claimant is partially unemployed and able and available for work have not yet been addressed by the Benefits Bureau.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

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.

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 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." The employer does not have a written copy of the reporting policy according to the specific terms of Iowa Code § 96.5(1)j.

In this case, the administrative law judge is persuaded the claimant's attempt to contact Julia and request a new assignment was sufficient. Because the employer utilizes an app to reassign its employees and does not allow the claimant access, the employer controls the entire reassignment process. The employer did not attend the hearing to refute the claimant's credible testimony. Based on the evidence presented, the claimant requested reassignment by calling Julia and the employer did not have work available at the time until November. Since he contacted the employer upon notification of the end of the assignment, requested reassignment, and there was no work available, benefits are allowed, provided he is otherwise eligible.

The issues of whether the claimant is partially unemployed and able and available for work are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

**DECISION:**

The November 4, 2019 (reference 01) Iowa Workforce Development ("IWD") unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible. **REMAND:** The issues of whether the claimant is partially unemployed and able and available for work are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Decision Dated and Mailed

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