

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

KELLIE KISNER
Claimant

APPEAL NO. 07A-UI-03783-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF CEDAR RAPIDS
Employer

OC: 03/04/07 R: 03
Claimant: Appellant (1)

Section 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Kellie Kisner (claimant) appealed an unemployment insurance decision dated April 2, 2007, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Manpower of Des Moines (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 30, 2007. The claimant participated in the hearing. The employer participated through Debbie Chamberlin, Risk Control Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant disqualified because she failed to contact the temporary employment agency within three working days after the completion of her assignment when notified of this requirement at the time of hire?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time clerical employee from March 20, 2006, through December 20, 2006. She was a no-call/no-show on December 19, and December 20, 2006. The customer to whom the claimant was assigned contacted the employer to advise the claimant was not wanted to return. The employer contacted the claimant and advised her of this fact. The claimant was ill that day, which is why she did not work. She reported that she called the customer but the customer had no record of it at the time the employer was contacted. The claimant was not going to be terminated but was going to be issued a verbal warning. The employer's records confirm the claimant did not request another assignment until January 22, 2007. She did sign a separate availability statement at the time of hire, which advised her she was required to contact the employer within three days following the completion of her assignment. The employer never returned the customer's property to the employer so it could be returned to the customer.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. See Iowa Code §§ 96.5-1 and 96.5-2-a.

Iowa Code section 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.

An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after ending a job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule. The employer must also notify the individual that she may be disqualified from receiving unemployment insurance benefits if she fails to notify the employer. Iowa Code § 96.5-1-j.

In the case herein, the employer was aware that the claimant's assignment was going to end as they informed the claimant of that fact. However, the day the employer contacted the claimant, she was ill and not able to work. The employer testified the claimant did not request additional assignments at that time and did not do so until January 22, 2007. Simply because the employer contacted the claimant to advise her she was asked not to return to the customer does not necessarily mean the claimant is available to work additional assignments. It is the claimant's responsibility to advise the employer of her availability, and that was not done in this case. The claimant testified that she did request additional assignments, but she also testified she notified both the employer and its customer that she was going to be absent due to illness and neither of these parties had any record of that notification. Consequently, the employer's evidence is found more reliable. The claimant did not satisfy the requirements of Iowa Code § 96.5-1-j and is disqualified from receiving unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated April 2, 2007, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw