

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TIMOTHY D CRETSINGER
Claimant

MIDWEST PROFESSIONAL STAFFING LLC
Employer

APPEAL NO. 17A-UI-04066-B2

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/05/17 R: 05
Claimant: Respondent (6)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding
Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated April 5, 2017, reference 05, which held claimant eligible for unemployment insurance benefits. After due notice, an in person hearing was scheduled for and held on May 5, 2017. Claimant participated personally. Employer participated by Liz Wilkinson and Melissa Gray. Employer's exhibits 1-6 and claimant's exhibits A-D 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 reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned at Sammons from July 14, 2016, and was separated from the assignment, but not the employment, on December 2, 2016. At that time the employer notified the claimant that the assignment had ended. Employer does have a policy that complies with the specific terms of Iowa Code § 96.5(1)j.

Claimant had not shown up for work or call in to the assignment at his most recent assignment on December 1 or 2, 2016. On December 2, 2016 the head of the assignment sent a message to employer stating that claimant was no longer wanted at that assignment as he'd been a no call / no show for at least the last two days. Employer informed claimant on Friday, December 2, 2016 that he was no longer needed and asked for claimant's assignment badge to be returned.

Claimant had no further contact with employer. Claimant did not contact employer to indicate that he wanted another placement within three days of the ending of his assignment. On

Monday, December 5, 2016 claimant interviewed with another employer, and began working for the other employer on December 12, 2016.

Claimant has received unemployment benefits in this matter in the amount of \$1189.00.

Employer did substantially participate in fact finding in this matter through employer's participation in the phone interview.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

For the reasons that follow, the administrative law judge concludes the claimant's quit was for the sole purpose of claimant obtaining different employment which claimant did obtain, and which claimant did work.

Claimant heard on Friday, December 2, 2016 of his placement ending. On Monday, December 5, 2016 claimant interviewed with another employer and was hired on the spot. As claimant sought and received a job, and his quitting was for the sole purpose of obtaining the job, claimant is eligible to receive benefits and employer's account will not be charged.

Claimant in this matter has not been overpaid benefits.

Employer in this matter is not responsible for benefits paid to employer.

DECISION:

The April 5, 2017, (reference 05) decision is modified with no change in effect. As the claimant's separation was from a quit for the sole purpose of obtaining another job, the claimant is eligible for benefits, and those benefits shall not be chargeable to employer's account. Benefits are allowed, provided the claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn