

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ODECIUS P GRAY
Claimant

AEROTEK INC
Employer

APPEAL 20A-UI-01015-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/05/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

On February 4, 2020, the claimant filed an appeal from the February 3, 2020, (reference 03) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on February 19, 2020. Claimant participated. Employer participated through recruiter Hunter Haws.

ISSUE:

Did 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: Employer is a temporary staffing firm. Employer does not have a policy requiring employees to request another assignment when an assignment ends.

Employer last assigned claimant to work at Harvest Innovations as a full-time production technician from May 13, 2019, until January 6, 2020.

On January 6, 2020, claimant had a telephone conversation with recruiter Hunter Haws. Haws informed claimant the client, Harvest Innovations, requested to end the assignment because of his attendance. Claimant had verbal warnings from Haws about his attendance at Harvest Innovations, but had never been given a written warning or a copy of an attendance policy that applied to the assignment. Claimant explained he most recently missed work due to a transportation issue. Haws told claimant that he was eligible for reassignment, but the next assignment would likely be his last chance due to past issues with other assignments. Haws told claimant to contact him regarding another assignment when he got his transportation issues figured out.

Since January 6, 2020, claimant has called Haws once or twice per week. Haws receives hundreds of phone calls each week and is not able to answer every phone call he receives. Claimant left voice messages for Haws at first, but stopped leaving voice messages after he did

not hear back from Haws. Claimant also tried calling employer's front desk, but was only transferred to Haws' voice mail.

Claimant has not heard back from Haws and has not been offered additional work from employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was separated from employment with good cause attributable to employer.

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.

Iowa Admin. Code 871—24.26(15) provides:

The following are reasons for a claimant leaving employment with good cause attributable to the employer:

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 had 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 accepted means of communications. Working days means the normal days in which the employer is open for business.

In this case, employer is a temporary staffing firm that does not have a policy requiring employees to request another assignment within a certain period of time after an assignment ends. Even so, claimant has tried to contact employer repeatedly after his assignment with Harvest Innovations ended. I find it believable that claimant and Haws had a miscommunication on January 6, 2020, regarding the duration of claimant's transportation issue. I also find it credible that claimant has called Haws and/or employer to request additional work, but has not been contacted back with any offers.

Claimant was separated with good cause attributable to employer.

DECISION:

The February 3, 2020, (reference 03), decision is reversed. The claimant's separation from employment was attributable to the employer. The claimant made adequate attempts to contact with the employer about his availability for work, even though he was not required to do so by any written policy. Benefits are allowed, provided the claimant is otherwise eligible.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

February 27, 2020
Decision Dated and Mailed

cal/scn