

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DOUGLAS B BULTEN
Claimant

MANPOWER INC OF DM
Employer

**APPEAL 14A-UI-11417-LT
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/05/14
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

The employer filed an appeal from the October 29, 2014, (reference 01) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 16, 2014. Claimant participated. Employer participated through branch manager Theresa Bullock. Loretta Weinzetl did not participate. The administrative law judge took official notice of the administrative record, including fact-finding documents.

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 employed part-time as a temporary production worker last assigned at C&S Products in Fort Dodge, Iowa from May 30, 2013, and was separated from the assignment, but not the employment, on October 12, 2014. The assignment ended on September 30. C&S Products manager Jeff told claimant he would call him back when he wanted him to work. Claimant waited three or four days for Jeff to call him back. When he did not, claimant contacted Manpower on October 6 to ask for work and request time records for assistance with his utility bills. He filed his claim for unemployment insurance benefits the same day. The employer could not locate a copy of the policy claimant signed about reporting back to work after the end of the assignment, but read from the January 2014 policy that requires employees to report to Manpower “immediately” after the end of the assignment and weekly thereafter. It does not have a policy that complies with the specific terms of Iowa Code § 96.5(1)j.

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 § 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.

Since employer provided no evidence that it presented claimant with a written copy of the reporting policy according to the specific terms of Iowa Code § 96.5(1)j, claimant was reasonable to opt to look for work elsewhere or to report for additional work when he did. Benefits are allowed.

DECISION:

The October 29, 2014, (reference 01) decision is affirmed. The claimant's separation from employment was attributable to the employer as the employer did not provide instruction about what to do at the end of the assignment according to Iowa Code § 96.5(1)j. Benefits are allowed, provided the claimant is otherwise eligible. Claimant is obligated to be available for work *and* make an earnest and active (*at least* two job contacts per week) search for work during each week he claims unemployment insurance benefits.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs