

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAFF A LEWIS

Claimant

APPEAL 21A-UI-04247-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING INC

Employer

OC: 07/12/20

Claimant: Appellant (1)

Iowa Code § 96.6(2) - Timeliness of Appeal
Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5-1-j – Separation from Temporary Employer

STATEMENT OF THE CASE:

Taff Lewis (claimant) appealed a representative's January 8, 2021, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits after her separation from work with Sedona Staffing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 6, 2021. The claimant participated personally. The employer participated by Colleen McGuinty, Unemployment Insurance Administrator.

Exhibit D-1 was received into evidence. The employer offered and Exhibit One was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the appeal was filed in a timely manner and, if so, whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from June 21, 2011, through March 4, 2021. He signed a document on January 17, 2020, indicating he was to contact the employer within three working days following the completion of an assignment to request placement in a new assignment. The document indicated the consequences of a failure to notify the employer. The claimant was given a copy of the document which was separate from the contract for hire. The claimant completed his assignment on May 11, 2020, but did not seek reassignment from the employer.

On January 28, 2020, the claimant was assigned to work at Sterilite. His assignment ended on May 11, 2020, and the claimant did not seek reassignment from the employer. He found

another job working at X-Pac in Milan, Illinois. He worked there from May 19, 2020, through approximately June 27, 2020.

The claimant worked for the employer again from December 11, 2020, through December 2020, 2020. He was assigned to HC Duke and Sons. The claimant resigned due to lack of childcare. He did not seek reassignment.

The claimant last worked for the employer from March 2, 2021, through March 4, 2021. He was assigned to Strategic Solutions. He completed the assignment and did not seek reassignment.

The claimant filed for unemployment insurance benefits with an effective date of July 12, 2020. His weekly benefit amount was determined to be \$219.00. The claimant received no state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after July 12, 2020.

A disqualification decision was mailed to the parties' last known address of record on January 8, 2021. The claimant did not receive the decision within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by January 19, 2021. The appeal was filed on January 29, 2021, which is after the date noticed on the decision. The claimant received the decision on January 28, 2021, and filed an appeal the next day.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received until January 28, 2021. He appealed the decision as soon as he received it. Therefore, the appeal shall be accepted as timely.

For the reasons that follow the administrative law judge concludes the claimant was separated from employment for a disqualifying reason.

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.

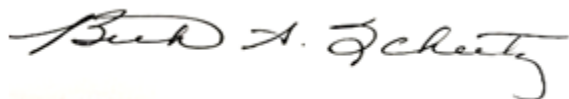
(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Under the Iowa Code the employer must advise the claimant of the three-day notice requirement and give the claimant a copy of that requirement. The notice requirement must be separate from the contract for hire. The employer followed the requirements of the code. The claimant did not. He did not request reassignment. Therefore, benefits are denied as of May 17, 2020.

DECISION:

The January 8, 2021, reference 02, decision is affirmed. The appeal in this case was timely. The claimant was separated from the employer for no good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge

April 12, 2021
Decision Dated and Mailed

bas/lj