

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARIA NINO
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 15A-UI-03538-JCT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/01/15
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 20, 2015 (reference 01) unemployment insurance decision that denied benefits based upon separation. The parties were properly notified about the hearing. A telephone hearing was held on April 28, 2015. The claimant participated through interpreter Olga Esparza. Hector Nino also testified for the claimant. The employer participated through Sarah Fiedler. Employer's Exhibit One was 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 employed on assignment from December 15, 2014 until March 2, 2015 as a full-time laborer for Quality Associates. The assignment ended on March 2, 2015; due to completion of available work.

The employer has a policy that requires its employees to contact the employer within three business days after an assignment ends, to seek a new assignment. If an employee fails to contact the employer, a voluntary separation is presumed. The claimant was provided a copy of the policy in English and signed for the policy on December 9, 2014 (Employer's Exhibit One). However, the claimant is not a native English speaker and cannot read or write in English or Spanish.

The form requiring the claimant and employees to maintain contact does not designate which location or which phone number an employee must call to seek additional assignment. The employer testified that a phone number is provided to employees, though not contained on the form itself. Following the claimant's assignment ending, she and her husband, who also worked for the employer, called and visited Ian McKee, an employee for Team Staffing Solutions, who worked at Quality Associates, repeatedly requesting new work. Because the

claimant did not contact the main Team Staffing Solutions office but rather a representative who worked onsite for the employer but did not handle recruiting, she was deemed to have quit; as she did not contact the correct office within three business days per policy.

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.

In this case, the claimant did not speak, read or write in English but was expected to comply with the reporting policy written in English without providing translation or interpretation assistance. The employer's policy does not specify which number or contact an employee must reach in order to be compliant, but rather, the employee must contact "the Company." Without knowledge or understanding of the reporting policy, the claimant was reasonable to contact Mr. McKee, who was a representative of Team Staffing Solutions, to request additional work when she did. She made the request within three business days and, therefore, her actions were reasonable under the circumstances. Benefits are allowed.

DECISION:

The March 20, 2015 (reference 01) decision is reversed. The claimant's separation from employment was attributable to the employer. The employer had adequate knowledge about the conclusion of the claimant's assignment but had no further work available at the time. Benefits are allowed, provided the claimant is otherwise eligible. The benefits withheld shall be paid to claimant.

Jennifer L. Coe
Administrative Law Judge

Decision Dated and Mailed

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