

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

KATRINA A SCHULTZ
Claimant

APPEAL NO: 18A-UI-11200-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARTWELL STAFFING SOLUTIONS
Employer

OC: 02/18/18
Claimant: Respondent (1R)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the November 8, 2018, (reference 09) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 3, 2018. The claimant registered but was unavailable when called for the hearing. She did not contact the Appeals Bureau. The employer participated through Katie Joens, on-site supervisor.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Employer Exhibits 1-29 were received into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

NOTE TO EMPLOYER:

If you wish to change the address of record, please access your account at: <https://www.myiowauui.org/UITIPTaxWeb/>.

ISSUES:

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a lead sorter, last assigned at Maclean-Fogg from July 10, 2018, and was separated from the assignment, but not the employment, on September 13, 2018.

At the time the employer notified the claimant that the assignment had ended, it also advised the claimant that she would need to maintain contact with the main branch or manager for a new assignment. The employer does not have a policy that complies with the specific terms of Iowa Code § 96.5(1)j. Rather in its field associate employee handbook, its reporting policy states an employee must report once a week to request a new assignment (Employer Exhibit 17) and remain actively employed.

On September 20, 2018, the claimant made contact with the employer and was offered a new position with PMP Industries. She declined the position. The issue of whether the claimant refused a suitable offer of work has not been addressed.

The administrative record reflects that claimant has a weekly benefit amount of \$101.00 but has not received unemployment benefits, since her separation date. (The claimant's benefits are currently locked on an unrelated issue.) The administrative record also establishes that the employer did not participate in the November 7, 2018 fact-finding interview or make a witness with direct knowledge available for rebuttal. Ms. Joens reported the employer received a phone call from Thomas and Company, its unemployment vendor, on November 6, 2018, but did not have information about who participated or why the employer did not participate. After the November 7, 2018 fact-finding interview, Dominique Alexander, claims analyst for Thomas and Company, sent a fax message on November 8, 2018, stating the claimant was discharged from employment. This information contradicted the testimony offered by Ms. Joens at the hearing.

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 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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. 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 report for additional work when she did on September 20, 2018. Benefits are allowed.

Because the claimant is allowed benefits, the issues of overpayment and relief of charges are moot. (At this time, the claimant has not received benefits.)

REMAND: The September 20, 2018 work refusal issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The November 8, 2018, (reference 09) 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.

REMAND: The September 20, 2018 work refusal issue delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn