

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MAXINE M BRISBY

Claimant

QPS EMPLOYMENT GROUP INC

Employer

APPEAL 17A-UI-06461-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/14/17

Claimant: APPELLANT (1)

Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 23, 2017, (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 13, 2017. Claimant participated. Employer participated through representative Rhonda Hefter de Santistaben, Human Resources Manager and Deana Groth, Placement Coordinator. Department's Exhibit D-1 was entered and received into the record. Employer's Exhibit 1 was entered and received into the record.

ISSUE:

Did the claimant voluntarily quit by not reporting for additional work assignments within three business days of the end of the last assignment.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was last assigned to work full-time at Apache Hose and Belting as a packager beginning on February 7, 2017. The assignment was to be indefinite. The claimant left work early on February 10 and became ill over the weekend. She was hospitalized beginning on February 10, 2017 through February 15, 2017. When she was released from the hospital the claimant did not call the employer or ever return to the employer to seek additional work. The employer had attempted to call the claimant several times on February 13 and 14 when she did not report for work but their voice mail messages were never returned. The employer did not learn that the claimant had missed work due to her hospitalization until the fact-finding interview was held.

The claimant had been given a copy of the employer's written policy that she was required to report back to the employer within three business days of the end of the assignment. As part of their regular business practices the employer keeps detailed notes and records about when employees call in to report for work. The employer would never allow the front desk receptionist to tell an employee that their employment had ended or they were discharged.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without 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. (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.

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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The claimant was physically incapable of reporting her absence due to her medical hospitalization on February 13, 14 and 15. Under those circumstances it is reasonable to extend her time period in which she was to notify the employer. The administrative law judge does not find the claimant's testimony credible that she called the employer on February 15 and the front desk lady told her she was discharged. The employer does not handle separations in that manner. The employer's credible records indicate the claimant simply never reported back to work after her hospitalization. In this case, the claimant gave the employer no notice of her availability and, therefore, is considered to have quit the employment, even though claimant may have returned to work for the temporary agency at some later date. Benefits are denied.

DECISION:

The June 23, 2017, (reference 03) decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs