

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DHAN M ACHARYA
Claimant

APPEAL 20A-UI-08491-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STAFFING INC
Employer

OC: 04/26/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit
Iowa Code section 96.5(1)(j) – Temporary Employee of Temporary Staffing Firm
Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer
Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Dhan M. Acharya, appealed the June 29, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Acharya voluntary quit her job with Iowa Staffing, Inc. (Iowa Staffing) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on August 31, 2020. Acharya participated personally and testified. Iowa Staffing participated through Alenjandra Rocha, who testified.

ISSUES:

Was Acharya's separation from employment with Iowa Staffing a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Iowa Staffing is a temporary staffing firm. It hired Acharya as a temporary employee on October 23, 2019. Acharya worked there full time as a packager.

Iowa Staffing assigned Acharya to work for a client business. The client ended Acharya's assignment effective April 3, 2020. The client gave Iowa Staffing notice on March 31, 2020. Iowa Staffing called Acharya and informed her of the end of her assignment on April 1, 2020.

During the phone call on April 1, 2020, Iowa Staffing and Acharya discussed a different assignment. Acharya rejected the assignment because she did not have transportation to get to the jobsite each day. After that conversation, Acharya and Iowa Staffing did not communicate. Iowa Staffing considered Acharya's employment to have ended on April 10, 2020.

On May 29, 2020, the client to which Acharya had been assigned informed Iowa Staffing that it had work for her. Iowa Staffing informed Acharya. She accepted the assignment. Acharya started work at the client's facility on June 15, 2020, and was still working there at the time of hearing as a temporary employee of Iowa Staffing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Acharya voluntarily left employment with Iowa Staffing without good cause attributable to the employer under the Iowa Employment Security Law, Iowa Code chapter 96.

Iowa Code section 96.5(1) generally disqualifies a claimant from benefits if the claimant quit their job without good cause attributable to the employer. Section 96.5(1)(j) governs temporary employees of temporary employment firms:

(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.

In the current case, Acharya required a Nepali interpreter to participate in the hearing. It is questionable whether the written notice requirement in section 96.5(1)(j) is met if the temporary employee cannot comprehend the written policy. This decision assumes without deciding that Iowa Staffing satisfied the notice requirement because the evidence does not support the conclusion that Acharya is disqualified under section 96.5(1)(j) if it did.

The evidence shows that Iowa Staffing knew the client business with which it had placed Acharya was ending her assignment before the assignment ended. Further, Iowa Staffing informed Acharya of the assignment coming to an end on April 1, 2020, two days before the end date. The three-day notice requirement under section 96.5(1)(j) was therefore met as a matter of law because it would be an absurd interpretation to require the claimant to give the employer

notice that her assignment ended within three days of its conclusion if the employer already knew it was ending on the day it ended.

During that same conversation, Iowa Staffing and Acharya discussed a new assignment. Iowa Staffing asked Acharya if she would accept a specific assignment. Acharya rejected the assignment because she did not have transportation. The evidence shows Acharya satisfied the requirement that she seek a new assignment because she engaged Iowa Staffing in communication that resulted in the offer of a new assignment, even if she rejected it.

Because Acharya rejected the proposed assignment due to lack of transportation, the evidence establishes she voluntarily quit employment without good cause attributable to the employer under section 96.5(1) and rule 871-24.25(1).

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) *a through j* and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 871-24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Iowa Administrative Code rule 871-24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 871-24.25(1), it is presumed a claimant voluntarily quit employment if the claimant left because of the claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

Here, Iowa Staffing did not agree to provide transportation. After one Iowa Staffing client ended Acharya's assignment, Iowa Staffing offered a new assignment. Acharya rejected the assignment because she did not have transportation. Acharya therefore voluntarily quit her job with Iowa Staffing without good cause attributable to the employer before restarting it when another assignment at the client business for which she was working became available and Iowa Staffing offered it to her. For these reasons, Acharya is not eligible for benefits because she quit her job due to lack of transportation.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 29, 2020 (reference 01) unemployment insurance decision is affirmed. Acharya voluntarily left employment without good cause attributable to Iowa Staffing. Benefits are withheld until such time as Acharya has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Acharya is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly

benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if Acharya is eligible for such compensation for the week claimed.

This decision does not address whether Acharya is eligible for PUA. For a decision on such eligibility, Acharya must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

September 3, 2020
Decision Dated and Mailed

bh/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.**
- For more information about PUA, go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>
- To apply for PUA, go to:
<https://www.iowaworkforcedevelopment.gov/pua-application>