

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT W BUTLER
Claimant

APPEAL NO. 13A-UI-03457-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**R J PERSONNEL INC
TEMP ASSOCIATES**
Employer

**OC: 03/25/12
Claimant: Respondent (1)**

Section 96.5-1-j – Sought Re-assignment from Temporary Employer

STATEMENT OF THE CASE:

R J Personnel, Inc. filed a timely appeal from a representative's decision dated March 15, 2013, reference 03, which held claimant eligible to receive unemployment insurance benefits finding that the claimant completed a temporary assignment on February 17, 2013 when the assignment was completed and the claimant did not notify the temporary employment within three working days of the completion of the last work assignment. After due notice was provided, a telephone hearing was held on April 24, 2013. Although duly notified, the claimant did not participate. Participating for the employer was Mr. Mike Thomas, Account Manager.

ISSUE:

The issue is whether the claimant voluntarily left employment by failing to contact the temporary employment company within three working days of the completion of his last work assignment.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Robert Butler began employment with R J Personnel, Inc. d/b/a Temp Associates on June 27, 2012. The claimant's most recent temporary job assignment through R J Personnel, Inc. was completed on February 17, 2013 when the assignment was completed and Mr. Butler contacted the temporary employment service within three working days to provide notice to the temporary agency employer that he was available for additional work assignments.

Although the employer agrees that the claimant's most recent separation from a temporary assignment took place under non disqualifying conditions, the employer believes that Mr. Butler should be subject to a benefit disqualification for two previous periods of temporary employment with the company that the employer alleges should have been disqualifying. The employer contends that Mr. Butler quit a temporary assignment on November 2, 2012 to go back to school and that he quit a temporary assignment on January 4, 2013 due to lack of transportation. The employer asserts that these separations were not adjudicated via Iowa Workforce Development and that the employer had no means of notifying Iowa Workforce Development of the separations so that they could be properly investigated and adjudicated.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the claimant left his most recent employment with R J Personnel, Inc. on February 17, 2013 with good cause attributable to the employer.

Iowa Code section 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.

871 IAC 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 matter the employer's witness agrees that Mr. Butler fulfilled his obligation to R J Personnel, Inc. by working until the assignment came to its conclusion on February 17, 2013 and that Mr. Butler complied with the statutory requirements and the agreement that he signed with R J Personnel, Inc. by contacting the temporary agency employer within three working days of the completion of his last work assignment. The administrative law judge thus concludes that the claimant's most recent separation took place with good cause attributable to the employer under non disqualifying conditions.

The temporary service employer is not precluded from protesting other separations in the claimant's base period. The employer has a right to notify Iowa Workforce Development each time that there is a job separation via temporary worker that the temporary employer feels should be considered to be disqualifying. The employer needs only to bring the matter to the attention of the agency stating that the company is protesting benefits being paid on the claim referencing a separation date and requesting that the matter be investigated and an appealable determination be issued on each separation.

The evidence in the record is not clear that the employer has protested previous separations by Mr. Butler in the manner above described or in any other way. Because this procedure is readily available to the temporary employer, the administrative law judge will not remand the previous alleged separations for investigation and the issuance of an appealable determination, but instead require the temporary employer to take these steps that are available to them.

DECISION:

The representative's decision dated March 15, 2013, reference 03, is affirmed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs