

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUKE J DETTMER
Claimant

APPEAL NO: 14A-UI-02904-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 01/12/14
Claimant: Appellant (2)

Iowa Code § 96.5(1)j – Voluntary Quit a Temporary Employment Firm

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 3, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because his employment separation was for disqualifying reasons. The claimant participated at the April 7 hearing. Samantha Thomas appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant registered to work with the employer in July 2012. He received a copy of the employer's handbook. The handbook indicates employees need to contact the employer for other jobs. The handbook does not state an employee must contact the employer within three working days of completing an assignment. In July 2012, the claimant signed an end-of-assignment policy that stated he needed to contact the employer within three working days of completing an assignment. The claimant does not recall signing or receiving a copy of this policy.

The employer assigned the claimant to work as an engineer at JD Engineering. The claimant started this assignment the first week of August 2012. The claimant completed this assignment in June 2013. Another engineering firm in the same building told the claimant about some work he could do for them for two or three weeks. The claimant contacted the employer so they could transfer the claimant to the other business. The claimant completed this second assignment by the first week of July 2013.

When the claimant worked one day the last week of work, he contacted the employer about his paycheck. The claimant then asked if the employer had any other engineering jobs to assign him to in the area. The employer did not have any other engineering work for him to do.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if she does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if he fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's testimony about talking to the employer when a second job assignment ended and asking if the employer had any other engineering jobs is credible. The claimant's credibility is supported by the fact he contacted the employer about working for another business entity for an additional two to three weeks. Since Thomas only started working for the employer in March 2014, her testimony is based on records other employees, who no longer work for the employer. The evidence indicates the claimant timely requested another job assignment, but the employer did not have another engineering job for him. This means, the claimant did not voluntarily quit and he was not discharged for work-connected misconduct. As of January 12, 2014, based on the reasons for this employment separation, the claimant is qualified to receive benefits.

DECISION:

The representative's March 3, 2014 determination (reference 01) is reversed. The claimant completed a job assignment and made a timely request for another assignment in July 2013. Based on the reasons for this employment separation, the claimant did not voluntarily quit this employment and the employer did not discharge him for work-connected misconduct. The claimant is qualified to receive benefits as of January 12, 2014, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css