

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EARNEST K OWENS
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL 19A-UI-04049-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/14/19
Claimant: Appellant (2-R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

On May 14, 2019, Earnest K. Owens (claimant) filed an appeal from the May 10, 2019, reference 01, unemployment insurance decision that denied benefits based upon the determination he failed to notify the temporary firm of the end of his assignment that he was available for work. The parties were properly notified about the hearing. A telephone hearing was held on June 12, 2019 and consolidated with the hearing for appeal 19A-UI-04050-SC-T. The claimant participated personally. Remedy Intelligent Staffing, Inc. (employer) participated through Staffing Consultant Aurea Nigaglioni. No exhibits were admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed in a temporary position as a full-time Supply Associate beginning on December 17, 2018 with the employer's client, University of Iowa, and his last day worked on the assignment was March 14, 2019. The employer has a policy which states an employee needs to notify the employer within three days of the end of an assignment that the assignment has ended and request additional work. The employer presents this policy in a power point during training but does not get the employee's signature on a document which includes the policy in its entirety or give a written copy to the employee unless requested. The claimant never received a copy of the policy.

The employer has a practice that if an employee does not report to the assignment, the client contacts the employer who then contacts the employee to find out why the employee did not report for work. After speaking with the employee, the employer notifies the client of the reason for the absence and the client will decide whether to allow the person to continue in the assignment.

After his last day worked, the claimant went to Chicago for a funeral. On March 26, Jeff, the client contact person, notified Staffing Consultant Keyshona Frick that the claimant had not reported to work. The following day, Frick spoke with the claimant who explained the reason for his absence. She notified Jeff of the reason and he decided to end the claimant's assignment. Frick notified the claimant about the end of the assignment and he requested additional work.

The following day, Frick offered the claimant two jobs which he declined for various reasons including the travel distance and lack of child care. The issues of whether the claimant refused suitable offers of work and if he is able to and available for work have not yet been investigated or adjudicated by the Benefits Bureau of Iowa Workforce Development (IWD).

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. Benefits are allowed, provided the claimant is otherwise eligible.

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.

Since the employer provided no evidence that it presented the claimant with a written copy of the reporting policy, the claimant's recollection that he did not receive notice of the reporting policy is credible. More importantly, the claimant's assignment ended on March 27 and he requested work the same day. Since he contacted the employer within three working days of the notification of the end of the assignment and requested reassignment, no disqualification is imposed.

The issues of whether the claimant refused suitable offers of work and if he is able to and available for work are remanded to the Benefits Bureau of IWD for a fact-finding interview which includes both parties and a determination with appeal rights issued to both parties.

DECISION:

The May 10, 2019, reference 01, unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

REMAND:

The issues of whether the claimant refused suitable offers of work and if he is able to and available for work are remanded to the Benefits Bureau of IWD for a fact-finding interview which includes both parties and a determination with appeal rights issued to both parties.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn