

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RUTHANNE M WILLIAMS
Claimant

APPEAL NO. 09A-UI-07491-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT HALF CORPORATION
Employer

OC: 04/05/09
Claimant: Appellant (1)

Section 96.5-1-j – Voluntary Quit Temporary Employment
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated May 15, 2009, reference 01, that held she was able and available for work and ineligible to receive benefits from April 5, 2009, through May 30, 2009.

A telephone hearing was scheduled and held June 8, 2009. The claimant participated. Shannon Jamtgaard, Division Director, participated on behalf of the employer.

ISSUES:

Whether the claimant voluntarily quit with good cause attributable to the employer and whether the claimant is able and available for work.

FINDINGS OF FACT:

The claimant began working a part-time position on assignment as a data entry person on December 7, 2007. The claimant then worked a series of temporary, part-time assignments that she completed up to her most recent one that began on January 13, 2009. The claimant worked a part-time, accountant's payable clerk position at Planned Parenthood that she completed on April 3, 2009. As of April 6, the claimant had not been offered a further assignment, so she made a decision do some volunteer work at her church. The claimant was called on or about April 16 and offered a part-time position to work at the Des Moines Public Schools. The claimant advised that she had agreed to do the volunteer church work through the end of May and would not be available for any further assignment during this period.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the claimant is a part-time employee who completed her most recent assignment at Planned Parenthood, but then failed to accept further

assignment that constitutes a voluntary quitting without good cause attributable to the employer effective April 3, 2009.

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.

The employer concurred with the claimant's testimony that she successfully completed her most recent temporary, assignment at Planned Parenthood on April 3, 2009. When continuing work was not made available to the claimant by April 6, she elected to do volunteer church work lasting through the end of May. When the claimant was called by the employer and offered part-time work on April 16 she turned down the assignment due to her volunteer work. Claimant's election not to be reassigned for the same type of employment that she has been working for the employer constitutes a voluntary quitting of employment without good cause attributable to the employer.

The administrative law judge further concludes that the claimant was not able and available to perform work for her regular, base period employer, based upon her election to do volunteer work.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant's decision to do volunteer church work constitutes a voluntary period of unemployment that did not make herself able and available to perform the same kind of work that she had been performing for the employer that is disqualifying. Had the claimant contacted the employer at the end of her volunteer work and sought reassignment, she may then have removed the disqualification imposed by reason of this decision.

DECISION:

The decision of the department representative dated May 15, 2009, reference 01, is affirmed. The claimant was not able and available for work from April 5, 2009, through May 30, 2009, and is ineligible for benefits during this period. The claimant voluntarily quit employment without good cause attributable to the employer when she failed to seek reassignment after failing to accept reassignment on April 16, 2009. The claimant is not entitled to receive benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

R. L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

css/css