

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ORAN L HAM
Claimant

APPEAL NO: 19A-UI-02994-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING INC
Employer

OC: 03/17/19
Claimant: Respondent (1R)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the April 4, 2019, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 30, 2019. The claimant participated personally. The employer participated through Colleen McGuinty, unemployment benefits administrator. Sandy Ford, branch manager, also testified. Employer Exhibit 1 was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

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

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on May 22, 2018. Claimant was last assigned to work full-time for Bachman Tool. The assignment ended on March 8, 2019 when the claimant quit the assignment.

Employer has a policy requiring employees to contact employer within three working days of the end of an assignment to request another placement. Claimant was aware of the policy.

On March 11, 2019, claimant notified employer he quit the assignment by email. In his email to Ms. Ford, he provided an explanation of what occurred on the job site and requested to be

placed on a new assignment. Ms. Ford did not respond until March 15, 2019 and no assignment was offered until April 8, 2019.

The claimant worked on assignment for the employer at Lund Manufacturing in Farley, Iowa on April 8, 2019. That separation from employment has not been adjudicated by the Benefits Bureau.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$2,175.00, since filing a claim with an effective date of March 17, 2019. The administrative record also establishes that the employer did not participate in the fact-finding interview or make a witness with direct knowledge available for rebuttal. The employer did not participate because it did not receive the notice of fact-finding interview. Ms. McGuinty learned the employer missed the fact-finding interview upon listening to her voicemail on April 4, 2019, which contained a message stating the employer had missed the April 3, 2019 interview.

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.

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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. The claimant contacted the employer within three business days of his assignment and requested help being reassigned. The employer did not offer claimant a new assignment until April 8, 2019. Since claimant contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and was not offered work, no disqualification is imposed.

Because claimant is qualified to receive benefits, the issues regarding overpayment of benefits are moot and will not be discussed further in this decision.

REMAND: The claimant's April 8, 2019 separation delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The April 4, 2019, (reference 02) decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible. **REMAND:** The claimant's April 8, 2019 separation delineated in the findings of fact is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn