

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSE L LANE
Claimant

SEDONA STAFFING INC
Employer

APPEAL 21A-UI-01516-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Respondent (2R)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment and Lost Wages Assistance
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL 116-136 Sec 2104(B) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the December 11, 2020 (reference 02) unemployment insurance decision that allowed benefits to the claimant based upon his separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on February 19, 2021. The claimant did not participate. The employer, Sedona Staffing Inc., participated through witnesses Edith Rubalcava and Chris Nelson. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

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

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

Can any charges to the employer's account be waived?

Is the claimant overpaid Federal Pandemic Unemployment Compensation benefits?

Is the claimant overpaid Lost Wages Assistance?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of this temporary employment firm. On July 19, 2019, the claimant signed the employer's assignment policy. See Ex 1. He received a copy of the policy. This policy was separate from his contract of hire. It provided that he must request additional work assignments within three working days of the completion of a job assignment. See Ex. 1.

Claimant received his job assignment from the employer to work at Klauer Manufacturing as a full-time sheet metal worker beginning August 10, 2020. This assignment was on-going and had no scheduled end date. Claimant did not like the job and resigned from the position on August 27, 2020. He did not request any additional job assignments from this employer within

three working days following his resignation. Continued work at Klauer Manufacturing was available to him.

A fact-finding interview was conducted on December 4, 2020 and the employer participated in the fact-finding interview through witness Colleen McGuinty. The employer provided information that the claimant voluntarily quit his position and failed to request an additional job assignment.

The claimant's administrative records establish that he did not receive any unemployment insurance benefits after the week-ending August 29, 2020 because he had already exhausted his regular unemployment insurance benefits and exhausted his initial Pandemic Emergency Unemployment Compensation benefits. He also did not receive any FPUC benefits after the week-ending August 29, 2020 or Lost Wages Assistance benefits after the week-ending August 29, 2020.

However, claimant earned wages and failed to report his wages during the week-ending August 15, 2020 in the amount of \$442.12; for the week-ending August 22, 2020 in the amount of \$559.72; and for the week-ending August 29, 2020 in the amount of \$224.00. His established weekly-benefit amount is \$222.00.

The matter of the claimant's failure to report wages and any resulting overpayment of regular unemployment insurance benefits, PEUC benefits and/or Lost Wages Assistance will be remanded to the Benefits Bureau for an investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was disqualifying. Benefits are denied effective August 27, 2020.

Iowa Code § 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. (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.

Iowa Admin. Code r. 871-24.26(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an assignment **and who seeks reassignment.**" The claimant notified the employer he was quitting the assignment and failed to request reassignment to another position. There was continuing work available. As such, the separation is disqualifying. Benefits are denied effective August 27, 2020.

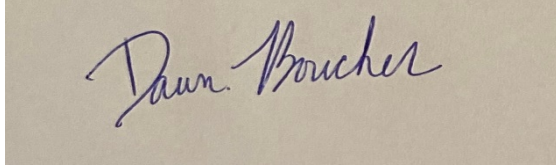
Because the claimant did not receive any unemployment insurance benefits after the week-ending August 29, 2020, the issue of overpayment of benefits after that date is moot. However, claimant failed to report gross wages earned in August of 2020 while working for this employer and that matter will be remanded to the Benefits Bureau for an initial investigation and determination.

DECISION:

The December 11, 2020 (reference 02) unemployment insurance decision is reversed. The claimant's separation was disqualifying due to the claimant's voluntary quitting of work. Unemployment insurance benefits funded by the State of Iowa are denied effective August 27, 2020 and continuing until claimant has worked in and earned wages for insured work equal to ten times his weekly benefit amount after his August 27, 2020 separation date, and provided he is otherwise eligible.

REMAND:

The issue of whether the claimant is overpaid regular unemployment insurance benefits funded by the State of Iowa, PEUC benefits, and/or Lost Wages Assistance benefits for the weeks in which he failed to report gross wages (August 9, 2020 through August 29, 2020) is remanded to the Benefits Bureau for an initial investigation and determination.



Dawn Boucher
Administrative Law Judge

March 1, 2021
Decision Dated and Mailed

db/scn

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.