

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**HEATHER S YOUNG**  
Claimant

**DES STAFFING SERVICES INC**  
Employer

**APPEAL 15A-UI-12031-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/20/15  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Heather Young (claimant) filed an appeal from the October 20, 2015 (reference 01) unemployment insurance decision that denied benefits based upon the determination she failed to notify DES Staffing Services, Inc. (employer) within three days of the end of her assignment and the employer notified her of her duty in writing. The parties were properly notified about the hearing. A telephone hearing was held on November 16, 2015. The claimant participated on her own behalf. The employer participated through Operations Manager Gayle Darrah. Employer's Exhibit One was received.

**ISSUES:**

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 full time as an Office Manager for the employer's client SunRay Construction, Inc. (SunRay) beginning on May 19, 2015 and was separated from employment on September 23, 2015. The claimant was released from her assignment on September 21, 2015; due to attendance issues involving a non-work related medical issue. She did not contact the employer after that date to ask about another assignment. The claimant contacted SunRay on October 17, 2015 asking to speak with the owner about returning to her position as her medical condition had improved. The claimant also states in the email she has contacted the employer about her last check, but has not received a response (Employer's Exhibit One). When she was hired, the claimant signed a contract agreeing to notify the employer within three days of the end of an assignment or she would be deemed to have voluntarily quit her employment (Employer's Exhibit One).

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer. Benefits are denied.

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. 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.

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of

Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant “who notifies the temporary employment firm of completion of an employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

The claimant contends she left a voice message for the employer on September 22, 2015 regarding her outstanding paycheck and asking for additional employment. The employer's witness, the only employee working in the office, testified she did not receive any phone calls from the claimant after her assignment ended. It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense, and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory, and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias, and prejudice. *Id.*

After assessing the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using her own common sense and experience, the administrative law judge finds the claimant may have contacted the employer but it was regarding her final paycheck and it did not occur within the three days of the separation as required. The claimant did seek reemployment directly with the client but waited almost a month to reach out to it as she had continued to experience medical issues. In her email, the claimant states she reached out to the employer but it was regarding her paycheck and makes no reference to seeking further employment with the employer. The claimant failed to contact the employer within the three days as required and notify it of her availability or request another assignment. Therefore, she is considered to have voluntarily quit the employment and benefits are denied.

**DECISION:**

The October 20, 2015 (reference 01) unemployment insurance decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as she works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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