

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LYNDA D HASSON
Claimant

APPEAL NO. 11A-UI-03036-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 01/23/11
Claimant: Respondent (1)

Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 8, 2011 (reference 01) decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on April 12, 2011. Claimant participated with her spouse, Ronald Hasson. Employer participated through Staffing Supervisor Sandra Fleming.

ISSUE:

The issue is whether claimant voluntarily left the employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time temporary trainer and auditor on third shift at the American Honda plant, paid \$11.00 per hour, from August 26, 2010 to January 26, 2011. At that time, the employer representative on-site supervisor notified the claimant that the assignment had ended for poor performance but that she remained an employee of Kelly Services and should contact the main office for additional assignments. On January 28 the claimant reported to the office in the company of her husband and talked to Lauri Martin about available jobs. Claimant declined a job offered at the Dollar General Store 35 miles away in Maquoketa, Iowa, because of the distance and lack of specific pay. Martin said she would notify claimant if something else became available. On February 9 claimant picked up her personal belongings and Martin asked her what she wanted for work assignments. She said she would like a job assignment and would prefer \$11.00 per hour on first shift. On March 14 the employer left a message for claimant about job availability and claimant responded that she had found a job on her own cooking for a daycare that began on March 4, 2011. Claimant's weekly benefit amount (WBA) is \$356.17.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer and adequately notified employer of her availability for additional assignments.

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.

871 IAC 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 the temporary assignment. Since claimant contacted the employer within three working days of the notification of the end of the assignment, and there was no reasonable, suitable work available, benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The March 8, 2011 (reference 01) decision is affirmed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible. The benefits withheld shall be paid to claimant.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw