

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JANET B DORSEY
Claimant

MANPOWER INTERNATIONAL INC
Employer

APPEAL 15A-UI-07587-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/24/15
Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

The employer filed an appeal from the June 22, 2015, (reference 05) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on July 27, 2015. Claimant participated. Employer participated through staffing specialist LeAnn Gulrud. Branch manager Shannon Duncan did not participate. Lori Patterson observed. The administrative law judge took official notice of the administrative record, including fact-finding documents.

ISSUE:

Did 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: Claimant was employed part-time as a kitchen aid assigned at Luther College for Sodexo from September 12, 2014, and was separated from employment on March 27, 2015, when she reported to the Manpower office and quit the assignment. The chef disciplined her in front of students rather than privately. Claimant did not report her concerns to Manpower before leaving the assignment. She did ask them to call her if they had any work.

She turned down a one-day job at \$50.00 for the day in West Union. She also declined a job one hour away in which the assignment would compensate her for mileage because of her cooking experience. The employer also offered her an assignment on June 1 at Swiss Valley in Luena, Iowa, five minutes from Postville, where claimant resides. Claimant did not give a reason for the separation but said she would “pass” and check into unemployment insurance benefits. The work would have been full-time (32 to 40 hours with possible over time), with variable hours between 6 a.m. to 10 p.m. on first or second shift at \$10.79 per hour for the production of cream cheese. Claimant had previous food production experience. Claimant has not been calling Manpower for work but has been applying for work within walking distance.

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 § 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 and seeking work at the end of the temporary assignment. Since she contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, no disqualification is imposed.

DECISION:

The June 22, 2015, (reference 05) unemployment insurance decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible. A hearing is scheduled on August 6, 2015, at 9:30 a.m. to address issues of work refusal and availability for work. Thus there is no remand for those topics.

Reminder to parties: You must read and follow the hearing notice instructions to participate in that hearing, even though you registered for and participated in the hearing held on July 27, 2015.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs