

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GABRIEL A GRANADO
Claimant

APPEAL NO. 12O-UI-06708-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
SEDONA STAFFING
Employer

OC: 01/22/12
Claimant: Respondent (1)

Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

This matter was before the administrative law judge because the Employment Appeal Board remanded for a new hearing. The underlying decision being appealed by the employer is the March 12, 2012, reference 02, decision that allowed benefits in connection with a December 18, 2011 separation. After due notice was issued, a new hearing was held on July 3, 2012. Claimant Gabriel Granado participated. Chad Baker represented the employer and presented additional testimony through Anna Weber. Exhibit One was received into evidence.

ISSUE:

Whether the claimant's separation from the temporary employment agency in December 2011 was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. The claimant's most recent assignment with the employer started on December 3, 2011. Claimant last performed work in the assignment on December 14, 2011. On that day, the claimant suffered a head injury when a box fell on him at work. The claimant made timely contact with Sedona Staffing regarding the injury and maintained contact with the Sedona Staffing office until he was released to return to work. In the meantime, the client business, the Target Distribution Center, ended the claimant's assignment on December 18, 2011. Some or much of the claimant's contact with the temporary employment agency from the time of his injury to the time that he was released to return to work was not documented by the temporary employment agency. The secretary with whom the claimant had contact was removed from her position. The branch manager with whom the claimant had contact subsequently separated from her position. The employer's only record of the claimant's relationship with the employer consists of notes kept by one or more staff members with whom the claimant had contact and some payroll information. The completeness and accuracy of the staff notes is in question.

The employer has an end-of-assignment notification policy that required the claimant contact to the employer within three working days of the completion of an assignment or risk disqualification for unemployment insurance benefits. The policy is set forth as a stand-alone policy on a separate document. The claimant signed his acknowledgment of the policy and received a copy of the policy.

REASONING AND CONCLUSIONS OF LAW:

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 weight of the evidence in the record indicates that the claimant performed work in the assignment until he was injured, promptly notified the employer of the injury, and maintained appropriate contact until he was released to return to work. The employer has presented insufficient evidence, and insufficiently direct and satisfactory evidence, to rebut the claimant's testimony regarding his contact with the Sedona Staffing branch. The claimant's December 18, 2011 separation was for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employers account may be charged.

DECISION:

The Agency representative's March 12, 2012, reference 02, decision is affirmed. The claimant's December 18, 2012 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw