

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GUETINGAR DINGAMTA RABBI
Claimant

LA LEASING INC
Employer

APPEAL 17A-UI-02803-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/17/16
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 7, 2017, (reference 03) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on May 2, 2017. Claimant participated. Employer did not participate. On April 13, 2017, the employer sent the agency a letter requesting to withdraw its protest of this claim on the basis that it is not the chargeable employer. Claimant's Exhibit A was received.

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: Employer is a temporary staffing firm. Claimant began working for employer in January 2017. Claimant was assigned to work part-time at Fisher Group as a packer. The last day claimant worked on the assignment was on Saturday, February 4, 2017. Claimant went to the assignment on Tuesday, February 7, 2017, but was sent home by the client due to lack of work. On Wednesday, February 8, 2017, claimant reported to the assignment, but was sent home by the client due to lack of work. The client informed claimant it was going to report to employer that it sent claimant home and that employer would let claimant know when he should return. Claimant asked the client, "So, I should wait for Sedona to call me?" The client said yes. After the assignment ended, the claimant failed to report to the employer within three working days and request further assignment as required by written policy.

REASONING AND CONCLUSIONS OF LAW:

As a preliminary matter, the employer cannot withdraw its timely protest of claimant's claim. There is no legal authority for such a withdrawal under Iowa unemployment law. Furthermore, claimants are not automatically qualified to receive benefits in the absence of a timely protest.

Kehde v. Iowa Division of Job Service, 318 N.W.2d 202 (Iowa 1982). Thus, employer's request to withdraw its protest is denied and has no effect on the issue considered today.

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

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.

Iowa Admin. Code 871—24.26(15) provides:

The following are reasons for a claimant leaving employment with good cause attributable to the employer:

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 had 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 accepted means of communications. Working days means the normal days in which the employer is open for business.

In this case, the employer had notice of the claimant's availability because its client notified employer of the end of the assignment but claimant did not request another assignment within three working days of the assignment ending.

Nevertheless, claimant is qualified to receive benefits.

Iowa Code § 96.5(1)g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as

determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

Inasmuch as claimant did not contact employer within three working days of the assignment ending, the separation is disqualifying. However, the claimant has not requalified for benefits since the separation and appears to be otherwise monetarily eligible according to base period wages.

DECISION:

The March 7, 2017, (reference 03), decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided the claimant is otherwise eligible. The account of this employer (237958) shall not be charged.

Christine A. Louis
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Decision Dated and Mailed

cal/rvs