

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEENA JACKSON

Claimant

APPEAL NO. 09A-UI-08618-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOBBS TEMPORARY SERVICES INC

PRO STAFF – DES MOINES

Employer

**Original Claim: 04/12/09
Claimant: Respondent (1)**

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, Pro Staff, filed an appeal from a decision dated June 12, 2009, reference 01. The decision allowed benefits to the claimant, Keena Jackson. After due notice was issued, a hearing was held by telephone conference call on July 1, 2009. The claimant participated on her own behalf. The employer participated by Talent Manager Amy Boiser.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Keena Jackson was employed by Pro Staff from September 17, 2008 until May 4, 2009. Her last assignment began Friday, May 1, 2009, at ING. It was to last approximately one week. When she accepted the assignment, Ms. Jackson knew she had a doctor's appointment scheduled for Monday, May 4, 2009, but did not notify the employer or her supervisor of this to get approval to be gone that day. Instead, she called in absent on the morning of May 4, 2009. Later that day, she was notified by Talent Manager Amy Boiser ING did not want her to return due to absenteeism.

The claimant did not specifically request a new assignment during her conversation with Ms. Boiser. For reasons that are not clear, she felt she would be returning to ING even though the employer told her the client did not want her to return. She also did not request more work because comments from Ms. Boiser caused her to believe no work was available. Ms. Jackson denied she received, and signed, a copy of the acknowledgement form that required her to contact the employer within three days of the end of any assignment to request more work.

The claimant remains on the active list for assignment and contacts Pro Staff periodically as required.

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 claimant admits she did not ask for another assignment once she was told she was not to return to ING. But, she also denied she received or signed a document notifying her of the requirement to do so. The employer did not provide a copy of the signed acknowledgement form to the appeals section in support of its case. Without such documentation, the administrative law judge cannot find the employer has met its burden of proof to establish the claimant actually received the notice. Without notification of the requirement to request a new assignment, the claimant is considered to have completed the assignment and declined to ask for a new one. Under the provisions of the above Administrative Code section, this is not a disqualifying separation.

DECISION:

The representative's decision of June 12, 2009, reference 01, is affirmed. Keena Jackson is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw