

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALISHA A CORNELL
Claimant

APPEAL NO. 07A-UI-05066-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
LABOR WORLD OF IOWA
Employer

OC: 12/24/06 R: 03
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit
Iowa Code section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Alisha Cornell filed a timely appeal from the May 14, 2007, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on June 5, 2007. Ms. Cornell participated. Doug Minders, Branch Manager, represented the employer.

ISSUES:

Whether the claimant's voluntary quit was for good cause attributable to the employer.
Whether the claimant's separation from the temporary employment agency 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: Alisha Cornell established her employment relationship with USA Staffing/Labor World of Iowa on April 12, 2007. The employer is a temporary employment agency. On April 13, Ms. Cornell commenced a full-time assignment at Delta in Rhinebeck. Ms. Cornell's scheduled work hours were 5:00 a.m. to 3:30 p.m., Monday through Thursday, and the same hours on some Fridays. On April 23, Ms. Cornell notified Delta that she was quitting effective April 24, 2007. Ms. Cornell did not complete the assignment and the employer continued to have work available for her. Ms. Cornell decided to quit because she did not care for the commute and needed time during the day to look for new employment. Ms. Cornell knew about the location of the assignment and the commuting distance at the time she accepted the assignment. Ms. Cornell started new employment approximately two weeks after separating from the assignment.

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.

Iowa Code section 96.5-1 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The evidence in the record indicates Ms. Cornell voluntarily quit her assignment at Delta and her employment with USA Staffing due to the commuting distance, but knew about the commute when she accepted the assignment. Quits for this reason are presumed to be without good cause attributable to the employer. See 871 IAC 24.25(30).

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Cornell voluntarily quit her employment without good cause attributable to the employer. Accordingly, Ms. Cornell is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Cornell.

DECISION:

The Agency representative's May 14, 2007, reference 03, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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