

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JASON HARRIS
Claimant

L A LEASING INC
Employer

APPEAL NO. 14A-UI-12106-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/26/14
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 18, 2014, reference 01, that concluded he was disqualified for not completing a temporary work assignment. A telephone hearing was held on December 11, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Latisha McKnight. Maria Mays participated in the hearing on behalf of the employer with a witness, Joe Vermeulen. Exhibits A and B were admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant most recently started working for the employer in August 2013. His last assignment was working at Spahn & Rose Lumber Company, delivering building material to job sites.

The job at Spahn & Rose Lumber Company involved heavy physical labor, including lifting very heavy sheets of drywall. The claimant was having difficulty performing the job and had dropped sheets of drywall due to problems with his muscles. He had asked the employer in August 2014 for a different assignment but was told there was no other work available. He asked for some time off to rest his body, but the employer would not allow him the requested time off. The claimant continued to work at Spahn & Rose Lumber Company and continued to experience problems with the strenuous work he had to perform. His last day was October 3, 2014. The assignment at Spahn & Rose Lumber Company was not continuous employment but was instead one or two-day assignments depending on Spahn & Rose Lumber Company's needs for persons. The claimant had completed the last assignment he was given.

On October 6, the claimant notified the employer that he was going to be out of the area for a few days because he had to go out of town for a funeral. He told the employer that he still wanted to work when he returned from the funeral, but he asked if they would find him a

different assignment that did not involve the heavy lifting because of concerns that he becoming a hazard on the job. The employer's representative said that was fine, that when he came back from the funeral, to call in to put himself back on the available for work list.

The claimant returned to the Dubuque area on October 13 and contacted the employer and said he was again available for work. The claimant called in regularly after October 13 but was told that there was no work available. Around October 21, the claimant was contacted by an employer's representative about a job with Georgia Pacific. The claimant does not have a car so he checked the bus schedule to see if there was bus service to the Georgia Pacific plant in Peosta, Iowa. Because there was no bus service to the plant, which is about 15 miles away, the claimant knew he could not be able to get to work and notified the employer that he needed work in Dubuque. The claimant continued to contact the employer about reassignment through October 24, 2014, but there was no work for him so he filed for unemployment insurance benefits effective October 26, 2014.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

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 § 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work.

The claimant never quit his employment with the employer. After completing a short-term assignment at Spahn & Rose Lumber Company, the claimant was away from work for a legitimate reason with notice to the employer. He asked the employer if they could find him an assignment with suitable work based on the effect of the heavy physical work on his health and concerns about safety. Again, this was a reasonable request. He informed the employer that he wanted to continue in employment with the employer.

Iowa Admin. Code r. 871-24.24(8) provides:

(8) Refusal disqualification jurisdiction. Both the offer of work or the order to apply for work and the claimant's accompanying refusal must occur within the individual's benefit year, as defined in subrule 24.1(21), before the Iowa code subsection 96.5(3) disqualification can be imposed. It is not necessary that the offer, the order, or the refusal occur in a week in which the claimant filed a weekly claim for benefits before the disqualification can be imposed.

A representative discussed an assignment at the Georgia Pacific plant in Peosta, Iowa, with the claimant but the discussion was before the claimant filed for unemployment insurance benefits. Under Iowa Admin. Code r. 871-24.24(8), the claimant would not be subject to disqualification for declining that assignment.

DECISION:

The unemployment insurance decision dated November 18, 2014, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs