

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

BRENDA M VANCIL
Claimant

APPEAL NO. 18A-UI-09952-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 09/09/18
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Brenda Vancil filed an appeal from the September 27, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the Benefits Bureau deputy's conclusion that Ms. Vancil voluntarily quit on September 12, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on October 15, 2018. Ms. Vancil participated. Sarah Fiedler represented the employer. Exhibits 1 through 5 and A were received into evidence.

ISSUE:

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: Team Staffing Solutions, Inc. is a temporary employment agency. Claimant Brenda Vancil established her relationship with Team Staffing in in December 2018. At that time, Ms. Vancil signed a document entitled Notification Requirement – Availability for Work Assignments. That document contained a stand-alone policy that obligated Ms. Vancil to contact the temporary employment agency for further work following completion of a work assignment, as follows:

I understand and acknowledge that upon completion of an assignment, I must contact the Company and request placement in a new assignment within three (3) working days of completing my last assignment or I will be deemed a voluntary quit and further assignments may not be offered.

I understand that my failure to contact the Company may affect my eligibility for unemployment insurance benefits.

My signature below acknowledges that I have been provided a copy of this policy.

Ms. Vancil received a copy of the Notification Requirement – Availability for Work Assignments after signing it.

On January 2, 2018, Ms. Vancil started a full-time, temporary assignment as a Shop Floor Planner at Case Construction in Burlington. The assignment paid \$25.00 per hour at the start. Three months into the assignment, Ms. Vancil's wage increased to \$28.00 per hour. Ms. Vancil completed the assignment on September 7, 2018. On the afternoon of September 6, 2018, a Team Staffing representative left a voicemail message for Ms. Vancil, letting her know that the assignment would end on Friday, September 7, 2018 due to a lack of work. On September 7, 2018, Ms. Vancil spoke with a Team Staffing representative by telephone. The team staffing representative reiterated that the assignment was completed due to a lack of work. The team staffing representative told Ms. Vancil that Team Staffing would not have any other work that paid what Ms. Vancil had been making in the assignment. Based on that statement, Ms. Vancil did not ask for further work. Ms. Vancil and Team Staffing did not have additional contact outside of unemployment insurance proceedings.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

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 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)(j) applies to Ms. Vancil's employment with Team Staffing Solutions. The employer's Notification Requirement – Availability for Work Assignments complies with the requirements of Iowa Code section 96.5(1)(j). The employer had Ms. Vancil read and sign the policy statement. Ms. Vancil received a copy of the policy statement she signed. Accordingly, Ms. Vancil was obligated to contact the temporary employment firm within three days of completing the assignment to request additional work. Ms. Vancil made appropriate contact with the temporary employment agency on September 7, 2018, after receiving notice that the assignment was ending that day. Ms. Vancil reasonably relied upon the Team Staffing representative's preemptive statement that the temporary employment agency would not have other work for Ms. Vancil that paid what she had been making in the assignment and for that reason only did not request a further assignment. In light of the employer representative's statement dissuading Ms. Vancil from requesting an additional, lower paying assignment, the evidence establishes a September 7, 2018 separation for good cause attributable to the temporary employment agency. The administrative law judge notes that the employer elected not to present testimony from the employer representative or representatives who spoke with Ms. Vancil on September 7, 2018. The employer presented insufficient evidence to rebut Ms. Vancil's testimony concerning the content of that contact. Ms. Vancil is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits.

DECISION:

The September 27, 2018, reference 01, decision is reversed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The separation was effective September 7, 2018. The claimant is eligible for benefits provided she meets all other eligibility requirements. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs