

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL J VANWINKLE
Claimant

APPEAL NO. 12A-UI-11237-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS NIC
Employer

OC: 08/05/12
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Michael Vanwinkle filed a timely appeal from the September 7, 2012, reference 01, decision that denied benefits in connection with an August 8, 2012 separation. After due notice was issued, a hearing was held on October 15, 2012. Mr. Vanwinkle participated. Sara Fiedler, Claims Administrator, represented the employer. Exhibit One was received into evidence.

ISSUE:

Whether the claimant's August 8, 2012 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: The employer is a temporary employment agency. In June 2012, Michael Vanwinkle started a full-time, temporary work assignment at Engineered Plastic Components in Kalona. Mr. Vanwinkle completed the assignment on August 8, 2012. On August 8, 2012, Team Staffing Solutions Staffing Specialist Michelle Reichert telephoned Mr. Vanwinkle after his shift at EPC to let him know that the assignment had ended through no fault of Mr. Vanwinkle because EPC had reached a point where they had more workers than needed. During that telephone call, Mr. Vanwinkle asked whether Team Staffing had any other work for him and Ms. Reichert said the employer did not have additional work. Ms. Reichert documented that Mr. Vanwinkle had *not* inquired about additional work. Mr. Vanwinkle continued to make weekly calls to the employer indicating his availability for work. On August 24, 2012, the employer initially offered Mr. Vanwinkle an assignment at different client business, which Mr. Vanwinkle accepted. Shortly thereafter, the employer contacted Mr. Vanwinkle and asked whether he wished to return to EPC. Mr. Vanwinkle accepted that offer of employment and started a new assignment at EPC on August 27, 2012. Ms. Reichert left Team Staffing in early September.

The employer has a written end-of-assignment notification policy that obligated Mr. Vanwinkle to contact the employer and request a new assignment within three working days of completing an assignment. The policy is clear and concise and set out on a separate document as a

stand-alone policy. Mr. Vanwinkle signed the policy on June 19, 2012 and received a copy of the policy at that time.

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 employer's end-of-assignment notification policy complies with the requirements of Iowa Code section 96.5(1)(j). The weight of the evidence indicates that Mr. Vanwinkle told the employer on August 8, 2012, that he was interested in a new assignment. The employer did not have work for him at that time. Mr. Vanwinkle's conversation with Ms. Reichert satisfied the requirement of Iowa Code section 96.5(1)(j). Given the absence of testimony from Ms. Reichert regarding the August 8 conversation or her notes concerning the same, the administrative law judge finds Mr. Vanwinkle's testimony more credible than the note made by Ms. Reichert. Mr. Vanwinkle's August 8, 2012 separation was for good cause attributable to the temporary employment agency. Mr. Vanwinkle is eligible for benefits provided he is otherwise eligible. The employer's account may be charged.

DECISION:

The Agency representative's September 7, 2012, reference 01 decision is reversed. The claimant's August 8, 2012 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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