

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL D JONES
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL NO. 19A-UI-03600-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/07/19
Claimant: Appellant (2)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 29, 2019, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 21, 2019. Claimant participated personally. Employer participated by Sarah Fiedler. Employer's Exhibits 1 was admitted into evidence.

ISSUE:

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was hired to work for employer on April 9, 2018. At or around the time of hire, claimant signed a document acknowledging that he needed to be in contact with employer within three days of the ending of a placement and request a new assignment.

On April 9, 2018 claimant was placed with Climax Molybdenum doing janitorial work. Climax has a rule that they will not keep temporary workers for over a year. On Friday, April 5, 2019 claimant was injured while working at Climax. After the injury he was sent out for a drug test. Although claimant was drug free on the ten panel test conducted, he was sent home until results of the thirteen panel test were shown. Later in the day, claimant was called by employer and told that the placement was coming to an end a few days early.

Claimant went to employer's place of business on April 8, 2019. Claimant stated that he requested a new placement on that date as he'd heard of the possibility of openings at the local Scott's plant. Employer stated that the plant was experiencing layoffs, and he might not be able to get a placement there. Claimant went back to Team Staffing on April 10, 2019 and again requested placement at Scotts or a replacement at Climax.

Employer did not provide the person who worked with claimant as that employee was off from work on the date of the hearing. But employer's witness testified that she spoke with the office

manager where claimant visited and the office manager did not mention anything regarding claimant requesting a new placement.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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.

In this matter, claimant provided direct testimony that he asked for additional placement on multiple occasions within three working days of the end of his assignment at Climax. The Iowa Supreme Court has ruled that if a party has the power to produce more explicit and direct evidence than it chooses to present, the administrative law judge may infer that evidence not presented would reveal deficiencies in the party's case. *Crosser v. Iowa Dep't of Pub. Safety*, 240 N.W.2d 682 (Iowa 1976). Although employer stated through hearsay testimony that

claimant did not request additional placement, claimant's testimony was much more specific as to what he asked for and when he asked and therefore more believable.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since he contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, benefits are allowed, provided he is otherwise eligible.

DECISION:

The April 29, 2019, (reference 01) unemployment insurance decision is reversed. The claimant's separation was attributable to the employer. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn