

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEENA A RING

Claimant

APPEAL 16A-UI-06889-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 05/22/16

Claimant: Appellant (4)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-Time Employment
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the June 14, 2016 (reference 01) unemployment insurance decision that denied benefits based upon her voluntary quitting her employment by failing to notify the temporary employment firm within three working days of the completion of her last work assignment. The parties were properly notified of the hearing. A telephone hearing was held on July 8, 2016. The claimant, Leena A. Ring, participated personally. The employer, Advance Services, Inc., participated through Risk Manager Steve Volle. Employer's Exhibits One and Two were admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

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

Has the claimant requalified or is she otherwise monetarily eligible for benefits?

Is the employer liable for benefit charges?

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a temporary employment firm. Claimant began her employment on October 6, 2015. Claimant worked part time and averaged six to twelve hours per week. Claimant's job assignment was with the Sugar Shack as a cook. Her job duties included frosting cookies, decorating cakes, and baking. Her assignment ended on April 23, 2016, when she voluntarily quit.

On October 6, 2015, the claimant completed paperwork with the employer, including signing the employer's End of Assignment Policy. See Exhibit Two. A copy of this policy was given to claimant. This policy clearly states that the claimant understands that it is her responsibility to contact Advance Services, Inc. within three working days after her assignment ends to request further assignments or she will be considered to have voluntarily quit. See Exhibit Two. Claimant resigned from her position because she had accumulated the necessary hours of working which were required by her college. She did not contact the employer within three working days of her assignment end date and she did not request additional work.

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 and has not requalified but appears to be otherwise monetarily eligible. Benefits are allowed.

Iowa Code § 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. (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.

Claimant voluntarily quit her assignment and did not request further work within three working days after her assignment end date. As such, claimant's separation was without good cause attributable to the employer.

Iowa Code §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.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

This rule is intended to implement Iowa Code section 96.5(1)g.

See also *McCarthy v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d. 201 (Iowa 1956) wherein the court held that persons who become unemployed by a layoff from their full-time employer cannot be disqualified for a previous voluntary quit from a part-time employer.

Inasmuch as claimant voluntarily quit without good cause attributable to the employer, the separation is disqualifying. However, the claimant has not requalified for benefits since the separation but appears to be otherwise monetarily eligible according to base period wages. Thus, she may be eligible for benefits based upon those other wages.

DECISION:

The June 14, 2016 (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided she is otherwise eligible. The account of this part-time employer (279311-000) shall not be charged.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

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