

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CRAIG W COLEMAN
Claimant

SEDONA STAFFING INC
Employer

APPEAL 20A-UI-03759-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5-1-j – Separation from Temporary Employer
Iowa Code § 96.3-7 – Overpayment
PL 116-136 Section 2104 (B) – Federal Pandemic Unemployment Compensation
871 IAC 24.10 – Employer Participation in the Fact-Finding Interview

STATEMENT OF THE CASE:

Sedona Staffing (employer) appealed a representative's April 27, 2020, decision (reference 01) that concluded Craig Coleman (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 26, 2020. The claimant did not provide a telephone number and, therefore, did not participate in the hearing. The employer participated by Edith Rubalcava, Risk Management Administrator, and Ali Mangelsdorf, Industrial Account Manager.

The employer offered and Exhibits One and Two were received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issues include whether the claimant was separated from employment for any disqualifying reason, whether the claimant was overpaid benefits, which party should be charged for those benefits, and whether the claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from April 30, 2019, through December 16, 2019. He signed a document on May 1, 2019, indicating he was to contact the employer within three working days following the completion of an assignment to request placement in a new assignment. The document did indicate the consequences of a failure to notify the employer. The claimant was given a copy of the document which was not separate from the contract for hire.

The claimant was assigned to work at Sterlite Corporation. There was no indication of a date the claimant received Sterlite Corporation policies. On November 18, 2019, Sterlite Corporation issued the claimant a written warning for attendance. It notified the claimant that further infractions could result in termination from employment. The claimant was absent again after November 18, 2019. The absence occurred on an unknown date for an unknown reason. The claimant's assignment ended on December 16, 2019. He sought reassignment from the employer on March 3, 2020. No work was available.

The claimant filed for unemployment insurance benefits with an effective date of March 29, 2020. At 8:56 a.m., on April 23, 2020, the employer sent an email that provided the name and number of Colleen McGuinty as the person who would participate in the fact-finding interview at 10:40 a.m., on April 24, 2020. Ms. McGuinty asked for an acknowledgement that her email was received. No acknowledgement was sent. The fact finder did not receive the email and called Ms. McGuinty at the employer's number. The fact finder left a voice message with the fact finder's name, number, and the employer's appeal rights at the number the employer's business number. The employer did not leave any additional messages or documents for the fact-finder.

The claimant filed for unemployment insurance benefits with an effective date of March 29, 2020. His weekly benefit amount was determined to be \$310.00. The claimant received benefits of \$310.00 per week from March 29, 2020, to the week ending May 16, 2020. This is a total of \$2,170.00 in state unemployment insurance benefits after the separation from employment. He also received \$4,200.00 in federal pandemic unemployment compensation for the seven-week period ending May 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not separated from employment for a disqualifying reason.

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:

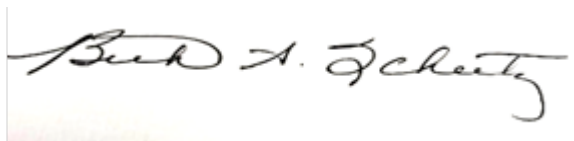
(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

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

Under the Iowa Code the employer must advise the claimant of the three-day notice requirement and give the claimant a copy of that requirement. The notice requirement must be separate from the contract for hire. In this case, the employer admits that the notice requirement was not separate from the contract for hire. The employer did not provide the claimant with the proper notice requirements and has, therefore, failed to satisfy the requirements of Iowa Code Section 96.5-1-j. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's April 27, 2020, decision (reference 01) is affirmed. The claimant was separated from the employer for good cause attributable to the employer. Benefits are allowed provided the claimant is otherwise eligible.



Beth A. Scheetz
Administrative Law Judge

May 28, 2020
Decision Dated and Mailed

bas/scn