

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KAOUTAR AYATT
Claimant

**EMPLOYER SOLUTIONS STAFFING
GROUP**
Employer

APPEAL 16A-UI-09900-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/14/16
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the September 6, 2016, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 17, 2016. Claimant participated. CTS Language Link interpreter ID number 4888 interpreted on claimant's behalf. Employer participated through staffing manager Emma Cropp and Sibley Mattson. Employer exhibit one was admitted into evidence over claimant's objection. Claimant objected to the picture because she is not sure what the picture is that the employer is referring too. Claimant received the documents from the employer prior to the hearing. Claimant's objection was overruled.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed in a temporary eighteen month contract, full-time, as a customer service representative, last assigned at EQUIFAX from February 7, 2016, and was separated from the assignment, but not the employment, on August 16, 2016. On August 16, 2016, claimant came to the employer and notified it that her assignment was over. EQUIFAX also notified the employer that claimant's assignment was done. Claimant's assignment ended when her team lead discovered she was on her cellphone in her work area, which was a violation of the EQUIFAX's electronic policy. Employer Exhibit One. EQUIFAX prohibits employees from having cellphones out at their computer. Employer Exhibit One. The employer offered claimant a different assignment, but it had different hours than the EQUIFAX assignment. It was a

second shift, manufacturing position. Claimant did not have any prior experience in manufacturing. Claimant declined the new assignment. Claimant requested first shift positions, but the employer did not have any first shift hours available at that time.

Claimant called the employer on August 23, 2016 looking for an additional assignment. At that time, the employer only had the second shift, manufacturing position available that claimant had already declined. The employer did not have any first shift hours available for claimant at that time. Claimant has been working as a caregiver for REM Iowa since September 30, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was with good cause attributable to the employer. 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 contacted the employer the same day that her assignment ended. Claimant was offered a new assignment, but it was second shift and she requested to work first shift (claimant's latest assignment was first shift). The employer did not have any first shift assignments available for claimant.

Although claimant was separated from the assignment for violating the assignment's electronic policy, she was not separated from the employer. Furthermore, claimant inquired about another assignment, but the employer did not have any first shift assignments available. Since claimant was not separated from employment when her assignment ended, contacted the employer the day her assignment ended, requested reassignment, and there was no first shift assignment's available, no disqualification is imposed. Benefits are allowed.

DECISION:

The September 6, 2016, (reference 01) unemployment insurance decision is reversed. Claimant's separation from employment was attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs