

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CANDICE WASHINGTON
Claimant

APPEAL NO: 20A-UI-06359-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 04/19/20
Claimant: Respondent (1)

Section 96.5-2-a – Discharge/Misconduct
Section 96.5(1)j – Voluntary Leaving (Temporary Employment)

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 9, 2020, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 22, 2020. The claimant participated in the hearing. Amy Fischer, Branch Manager and Toni Holguin, Human Resources Specialist, participated in the hearing on behalf of the employer. Claimant's Exhibit A and Employer's Exhibits One through Four were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

The claimant was employed as a full-time general laborer for Aventure Staffing & Professional last assigned at C & S Products from October 29, 2019 to December 27, 2019. She had surgery and was off work beginning December 9, 2019. She thought she would be off work for two weeks but was not released until December 30, 2019.

The employer has a policy stating that upon completion of an assignment the employee will contact the employer within three business days to request additional work (Employer's Exhibit Four).

On December 24, 2019, the claimant called the office and stated she needed a little more time because her next doctor's appointment was December 30, 2019, and she anticipated being released for work at that time. The employer told her that C & S Products could not hold her job any longer. The claimant also notified the employer that due to a domestic violence situation she had to move out of the area and would be using a domestic abuse shelter in Ames for her mailing address. The claimant moved to a town near Fort Dodge. She said she was still able to work in Fort Dodge or Humboldt. She did not specifically ask for other employment at that time but did call the employer December 26, 2019, and left a voice mail asking for another

assignment. The claimant called back December 27, 2019, inquiring about another assignment, and spoke with Briley. She was told there were no assignments available at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

Iowa Admin. Code r. 871-24.26.(22) 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”

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific periods of time had lapsed. 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 employees shall be considered to have voluntarily quit employment.

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.

The employer has not established misconduct on the part of the claimant as defined by Iowa law. The claimant's assignment was ended by the client when she was not able to return to work December 24, 2019, following a surgery. She notified the employer she could not return until December 30, 2019, and was told the client would not hold her position. The claimant did not quit her assignment and was not discharged from employment.

The remaining issue is whether the claimant sought reassignment from the employer. While the employer's policy requires employees to seek reassignment from the employer within three business days after the end of the assignment, the purpose of the statute is to provide notice to the temporary employment firm that the claimant is able and available for work.

There may have been a misunderstanding between the parties due to the fact that the claimant had to move because of domestic abuse. While she remained in the area and was available to work in Fort Dodge or Humboldt, she had an Ames mailing address she provided to the employer and the employer believed she was living in Ames and therefore not able to work in the Fort Dodge area.

In this case, the claimant sought reassignment by asking the employer about additional assignments when she called December 26 and December 27, 2019. That conversation satisfied the reason for the rule because the employer knew at that time the claimant was able and available and wanted another assignment. Therefore, benefits must be allowed

DECISION:

The June 9, 2020, reference 01, decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed provided the claimant is otherwise eligible.



Julie Elder
Administrative Law Judge

August 3, 2020
Decision Dated and Mailed

je/sam