

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSEPH GRIFFITH
Claimant

QPS EMPLOYMENT GROUP INC
Employer

APPEAL 20A-UI-04021-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: APPELLANT (2)

Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On May 13, 2020, the claimant filed an appeal from the May 4, 2020, (reference 01) unemployment insurance decision that denied benefits based on a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on May 29, 2020. Claimant participated and called Jerome Thomas. Employer participated through Frances Theisen, unemployment coordinator and Jessica Stanley.

ISSUE:

Did the claimant voluntarily quit his job without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 16, 2020. The employer, QPS Employment Group, Inc., (QPS) is a temporary employment firm. Claimant was placed by QPS to work at PPG. Claimant last worked on March 20, 2020 for PPG. Claimant was separated from employment on March 25, 2020, when he was informed that due to claimant missing work at PPG, PPG no longer wanted claimant to be placed at their facility.

Jessica Stanley, Senior Recruiter, at QPS testified that QPS is an employment staffing company that recruits employees for work placements. Ms. Stanley testified that claimant was not hired to work at PPG for absences, seasonal workloads, temporary skill or labor market shortages or for special assignments and projects. Ms. Stanley testified that claimant was hired as a “temp-to-hire” to be placed at PPG with the possibility of permanent employment. Ms. Stanley said that PPG looked to QPS to find permanent employees and that when QPS employees were placed at PPG, PPG’s intent was to find permanent employees.

The employer submitted a form entitled QPS EMPLOYMENT GROUP, INC. 3-DAY REASSIGNMENT POLICY which was admitted as Exhibit A. Exhibit A was signed by claimant and provided claimant notice that it was his duty to call in and request reassignment within three days after completing an assignment.

Claimant began his first and only work assignment for QPS when he was placed at PPG on February 16, 2020. Ms. Stanley said that claimant was notified by voicemail and text on March 25, 2020 that PPG no longer wanted him to report for assignment. Ms. Stanley stated that PPG reported claimant last worked on Friday March 20, 2020. He called in sick on Sunday, March 22, 2020, but did not call on Monday, March 23, 2020 or Tuesday, March 24, 2020. Ms. Stanley said that PPG had adopted a policy of a one-day no-call/no-show for probationary employees and would end employment with one-day no-call. Ms. Stanley testified she had no record of claimant contacting QPS and requesting a work assignment within three business day of his terminated assignment at PPG. Ms. Stanley agreed that some of the calls to the QPS Waterloo office would be routed to a Wisconsin call center, and when that happened they would receive the voicemail messages forwarded to the Waterloo office. Ms. Stanley said she was not contacted within three business day after the March 25, 2020 text that informed claimant his assignment had ended. Ms. Stanley said that she spoke to claimant on Monday, March 30, 2020.

Claimant testified when he was hired by QPS he was assigned to work at PPG. Claimant said that he had a medical problem and was unable to go to work on March 23, 2020. Claimant testified he called PPG and informed them that he had a medical condition and could not come into work. Claimant also called QPS and left a message that he was not able to work. Mr. Thomas testified that the claimant provided him a ride to work at PPS every day. Mr. Thomas said that up until March 22, 2020 claimant had not missed one day at work at PPG. Claimant called Mr. Thomas four hours before the shift started so that he could arrange another ride to work. Mr. Thomas did not hear any phone calls made by claimant to his employers.

Claimant attempted to go to the emergency room on March 23, 2020, but was turned away due to the COVID-19 crisis and had to make an appointment and was seen on March 25, 2020 in the emergency department. Claimant was scheduled for and had surgery on March 27, 2020.

Claimant testified he called PPG and QPS March 25, 2020 and March 27, 2020. Claimant testified he was transferred to the Wisconsin call center and never received any response by QPS. Claimant also went to the office of QPS on March 25, 2020 and March 27, 2020. The doors to the office were locked and no one would come to the front door to answer. The office doors were locked due to Covid -19.

I find that claimant contacted the employer within three days of his notice of the end of assignment. Monday March 30, 2020 is within three working days of his notice of Monday March 25, 2020. I also found the claimant's testimony credible that he called and tried to contact QPS, but his attempts were not properly routed by the call center within three days of March 25, 2020. Claimant also tried to go to the office on March 25, 2020 and March 27, 2020 and was prevented by the employer locking the doors from making personal contact. I also find claimant's testimony that he properly notified PPG of his absences to be credible.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.26(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

The Iowa Supreme Court affirmed the denial of unemployment benefits to a claimant who failed to call her temporary employment firm within three days of the end of her assignment. *Sladek v. Employment Appeal Bd.*, 939 N.W.2d 632, (Iowa 2020).

The court held: "The purpose of [Iowa Code section 96.5(1)(j)] 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." *Sladek v. Employment Appeal Bd.*, 939 N.W.2d 632, 637 (Iowa 2020)

I find that claimant did contact his employer within three business days of his notices of termination of assignment at PPG. Claimant called, went to the office and spoke to QPS within three business days. The employer admitted claimant contacted them on March 30, 2020, which is the third business day.

Alternately, claimant would also qualify for the good cause exception found in Iowa Code section 96.5(1)j(1) due to this surgery, and the closure of the doors of QPS due to Covid-19.

DECISION:

The May 4, 2020, (reference 01) unemployment insurance decision is reversed in favor of the appellant. The claimant contacted his employer within three days after his assignment ended.



James F. Elliott
Administrative Law Judge

June 11, 2020
Decision Dated and Mailed

je/sam

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>