

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATALIE F QUINN
Claimant

APPEAL NO. 12A-UI-06627-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

OC: 04/22/12
Claimant: Appellant (2)

871 IAC 24.26(19) – Fulfillment of the Contract of Hire

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the May 30, 2012, reference 01, decision that denied benefits based on an agency conclusion that she had voluntarily quit employment on May 8, 2011 by failing to notify the temporary employment agency within three working days of her assignment ending. A hearing was scheduled for June 27, 2012, and the parties were properly notified by notice mailed on June 11, 2012. Neither party responded to the hearing notice instruction to provide a telephone number for the hearing and neither participated. The administrative law judge took official notice of documented submitted for and generated in connection with the fact-finding interview.

ISSUE:

Whether the claimant's separation from the temporary employment agency on or about May 8, 2011 was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Natalie Quinn commenced a full-time, temporary work assignment in April 2011 and completed the assignment on May 8, 2011. Ms. Quinn did not make further contact with the temporary employment agency.

The employer had a Notification of Unemployment policy document that impacted Ms. Quinn's employment. The document reads as follows:

Failure to maintain contact with your Branch office upon completion of an Assignment.

The employee is responsible to maintain contact with the assigning Branch office after the completion of an assignment.

Spherion, ("the Company") requires that an employee makes either verbal or written contact with the branch office within 24 hours of the completion of an assignment providing availability for additional work from the Company. Failure to seek subsequent

work within 24 hours upon completion of an assignment could result in denial of unemployment benefits and is a violation of Company policy. In the event you are employed in an assignment in the states of Idaho, New Jersey or Tennessee and your assignment ends, please refer to the notes below.

I have read and understand the requirements of maintaining contact with the assigning branch upon the completion of an assignment and acknowledge my agreement with my signature below.

Name: Natalie F. Quinn [typed] Social Security # [excluded by admin. law judge]
Signature: {e-Signature was provided} Date 11/15/2010

Below the text that is set forth above are Notes specific to employment in Idaho, New Jersey, and Tennessee.

Nothing on the document indicates that the claimant was provided with a copy, or a hardcopy, of the policy.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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. 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.

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.

For the purposes of this paragraph:

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

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

871 IAC 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.

The Claim's deputy's decision was in error. The employer's Notification of Unemployment policy does not comply with the requirements of Iowa Code section 96.5(1)(j). The policy does not accurately state the three-day end-of-assignment notice requirement. The employer's policy does not provide the statutorily mandated clear and concise statement of a conforming policy on a separate stand-alone document. There is no indication the claimant received a copy of the policy. Absent evidence to establish that the employer complied with its obligations under the statute—and such evidence is not to be found in the fact-finding materials--the employer cannot claim the benefit of the statute to disqualify the claimant for unemployment insurance benefits. In other words, the statute does not apply to the claimant. The claimant fulfilled her contract of hire and her obligation to the employer when she completed the assignment on May 8, 2011. The claimant was under no obligation to maintain contact with the employer or seek further work through the temporary employment agency.

Ms. Quinn's May 8, 2011 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Ms. Quinn is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Quinn.

DECISION:

The Agency representative's May 30, 2012, reference 01, decision is reversed. The claimant's May 8, 2011 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs