

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCHARELL N SHAVERS
Claimant

APPEAL NO. 14A-UI-04079-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 03/16/14
Claimant: Respondent (1)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 11, 2014, reference 01, decision that allowed benefits to the claimant provided she was otherwise eligible and that held the employer's account could be charged, based on an agency conclusion that the claimant's March 18, 2014 separation was for good cause attributable to the temporary employment agency. After due notice was issued, a hearing was held on May 7, 2014. Claimant Scharell Shavers participated. Colleen McGuinty represented the employer and presented additional testimony through Megan Francis and Julie White. The administrative law judge took official notice of the agency's administrative record of benefits disbursed to the claimant. The administrative law judge took official notice of the fact-finding materials, but did so for the limited purpose of determining whether the employer participated in the fact-finding interview. Exhibits One, Two and Three were received into evidence.

ISSUE:

Whether the claimant's March 18, 2014 separation from the temporary employment agency 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: L A Leasing, Inc., is a temporary employment agency. Scharell Shavers performed work for the employer on a single full-time, temporary work assignment at Wilton Precision Steel. Ms. Shavers started the assignment in October 2013 and last performed work in the assignment on March 17, 2014. The client business ended the assignment effective March 18, 2014. The client business did not allege any misconduct on the part of Ms. Shavers.

On March 18, 2014, L A Leasing Account Manager Julie White notified Ms. Shavers by telephone that the assignment had ended. During that phone call, Ms. Shavers specifically asked Ms. White whether the employer had something else for her, meaning whether the employer had another assignment for her. Ms. White told Ms. Shavers that the employer did not have another assignment for her at the moment. The next contact between the employer and Ms. Shavers occurred on March 20, when the employer left a message that Ms. Shavers

needed to turn in her keys to the client business. On March 24, Ms. Shavers dropped off the keys. Ms. Shavers did sign in at the employer's office after the telephone call on March 18, 2014.

The employer had an end of assignment policy that obligated Ms. Shavers to make contact with the employer within three working days of the end of an assignment to request a new assignment. The policy indicated that failure to make the required contact would be interpreted as a voluntary quit and might impact unemployment insurance benefit eligibility. Ms. Shavers signed the policy and received a copy 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.

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.

The weight of the evidence in the record indicates that Ms. Shavers did indeed request additional work from Ms. White on March 18, 2014, when Ms. White called Ms. Shavers to notify her that the assignment had ended. The weight of the evidence indicates that the employer did not have additional work at that time. During the hearing, Ms. Shavers was adamant that she had made such request. She asked why Ms. White was not in the hearing to discuss the conversation. Ms. White did join the hearing and provided testimony concerning the contact. Ms. White testified that she did not recall Ms. Shavers asking for additional work. Ms. White had documented that Ms. Shavers had not asked the employer to look for other work for her. Both parties have a reason to color their testimony. The employer has an interest in documentation that serves the employer's interests. After hearing and weighing the evidence, the administrative law judge concludes that Ms. Shavers' testimony is the more credible testimony.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Shavers' separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Ms. Shavers is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid.

DECISION:

The Agency representative's April 11, 2014, reference 01, decision is affirmed. The claimant's 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

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