

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMY BEHREND

Claimant

APPEAL 20A-UI-04539-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC

Employer

OC: 04/05/20

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant, Jeremy Behrends, filed an appeal from the May 18, 2020 (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit from employment, by failing to notify the employer within three days the completion of the last assignment and by failing to report within three days of the completion of the last assignment for re-assignment. The parties were properly notified of the hearing. A telephone hearing was held on June 9, 2020. The claimant, Jeremy Behrend, participated personally. The employer, QPS Employment Group, participated through Mai Lor and Jessica Stanley. Employer's Exhibit 1 was admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

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

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a QPS Employment Group. Claimant began his employment in August 2019. Claimant's last day of work was January 10, 2020. The claimant's last job assignment ended on January 14, 2020 when the client asked to end the claimant's assignment due to attendance issues. Jessica Stanley notified claimant that his most recent work assignment had ended on January 14 by text and voicemail. Jessica Stanley did not receive a response from claimant.

Claimant signed an acknowledgement of the employer's three day re-assignment policy on July 31, 2019. This policy requires the claimant to notify the employer of the end of each work assignment within three working days as required by Iowa Code Section 96.5(1)(J). See Employer's Exhibit 1. The policy further states that "Failure to report within three (3) days for

reassignment without reasonable cause will indicate that you have quit working for QPS Employment Group. Furthermore, failure to seek re-assignment may result in disqualification for unemployment benefits pursuant to Iowa Code Section 96.5-1-j.”

Claimant contacted the employer by telephone on January 10, 2020, January 13, January 16, and February 3. Claimant stated the purpose of the phone calls on January 10, 13 and 16 was to find out what had happened and to make arrangements to retrieve his property from his locker. At no time after his assignment ended on January 14 did Claimant request more work or another work assignment as required by written policy. Had claimant called to ask for more work, the employer had more work available for him.

On February 3, claimant called about a new position he had seen posted on Indeed.com. Claimant filled out an application posted on Indeed on February 24 but did not respond to Jessica Stanley's phone call.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was without good cause attributable to the employer. Benefits are denied.

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.

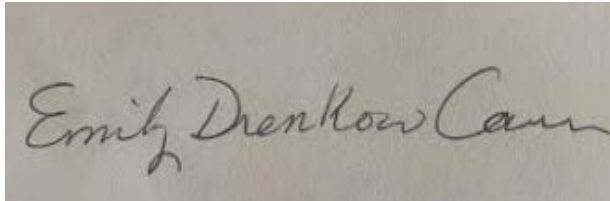
The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an assignment and who seeks reassignment."

In this case, the claimant did not notify the employer of the end of the assignment, of his availability or request another assignment according to the employer's reporting policy and, therefore, is considered to have quit the employment without good cause attributable to the employer. This is the case even if he may have contacted the temporary agency at some later date.

As such, the claimant failed to comply with Iowa Code section 96.5(1)j and he voluntarily quit employment without good cause attributable to the employer. The separation is disqualifying. Benefits are denied.

DECISION:

The May 18, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant's separation was without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

A photograph of a handwritten signature in dark ink on a light-colored, slightly textured surface. The signature is written in a cursive, flowing style and reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

June 24, 2020
Decision Dated and Mailed

ed/scn