

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RYAN J VAUGHN

Claimant

APPEAL 16A-UI-07266-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC

Employer

OC: 05/15/16

Claimant: Respondent (1R)

Iowa Code § 96.5(1) – Voluntary Quitting

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

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

Manpower International, Inc. (employer) filed an appeal from the June 20, 2016, (reference 04) unemployment insurance decision that allowed benefits based upon the determination that Ryan J. Vaughn (claimant) completed his work assignment and notified the employer he was seeking a new assignment as required. The parties were properly notified about the hearing. A telephone hearing was held on July 20, 2016. The claimant participated personally. The employer participated through Staffing Specialist LeAnn Gulrud. The administrative law judge took official notice of the administrative record, including the fact-finding documents.

ISSUES:

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

Has the claimant been overpaid unemployment insurance benefits?

Can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed in a temporary full-time position as a Degate Production Helper beginning on April 18, 2016, and his assignment ended on May 18, 2016. Staffing Specialist LeAnn Gulrud notified the claimant that his assignment had ended. During the conversation, the claimant requested another assignment, but the employer did not have one available.

On June 30, 2016, Gulrud contacted the claimant to schedule an interview with a client. The claimant declined the interview stating he had other employment and would not need any further

assignments. The claimant has not started a new job and continues to receive unemployment benefits.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$3,298.00, since filing a claim with an effective date of May 15, 2016, for the seven weeks ending July 2, 2016. The administrative record also establishes that the employer did participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation on May 18, 2016 was with good cause attributable to the employer.

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(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 purpose of the statute 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. The employer notified the claimant of the end of his assignment. The same day, he requested reassignment and there was no work available. Accordingly benefits are allowed, provided he is otherwise eligible.

As benefits are allowed, the issues of overpayment, repayment, and the chargeability of the employer's account through week ending July 2, 2016 are moot.

DECISION:

The June 20, 2016, (reference 04) unemployment insurance decision is affirmed. The claimant's separation from employment was attributable to the employer. The employer had adequate knowledge about the conclusion of the claimant's assignment and the request for more work but had no further work available at the time. Benefits are allowed, provided the claimant is otherwise eligible. The issues of overpayment, repayment, and the chargeability of the employer's account through week ending July 2, 2016 are moot.

REMAND:

The June 20, 2016, (reference 04) unemployment insurance decision did not address the events that occurred after June 30, 2016. The issues related to the events of June 30, 2016, specifically, did he refuse a referral for work, is the claimant able and available for work after that day, and has he been overpaid benefits beginning July 3, 2016, are remanded to the Benefits Bureau for initial investigation and determination.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

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