

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

QUINCY CARTER
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 18A-UI-05216-SC

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/01/18
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Quincy Carter (claimant) filed an appeal from the April 23, 2018, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with Team Staffing Solutions, Inc. (employer) when he failed to contact it within three days of the end of his assignment and request additional employment. The parties were properly notified about the hearing. A telephone hearing was held in Davenport, Iowa at 11:00 a.m. on May 31, 2018. The claimant and his friend, Leslie Robinson, participated. The employer participated through Human Resource Generalist Sarah Feidler. The employer's Exhibit 1 was admitted over the claimant's objection based on foundation.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a temporary full-time Poucher with the employer's client Kraft Foods beginning on September 5, 2017, and his last day at the assignment was January 17, 2018. The employer has a policy stating that an employee has three days at the end of an assignment to notify the employer he or she is available for work and seeking additional work or they will be deemed to have voluntarily quit employment. The claimant signed and received a copy of that policy.

On January 18, Branch Manager Kelsey Speed contacted the claimant to notify him that his assignment had ended. During the conversation, the claimant asked if they had anything else for him. Speed stated she did not have anything but advised him to call back the following week to see if there were any positions available. The claimant called back the following week, but there were no positions available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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. (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.

The decision in this case rests entirely upon the credibility of the claimant and Speed, the two parties involved in the January 18 conversation. Speed was not present at the hearing as she was performing other job functions for the employer. The employer did not request to continue the hearing until a time she was available to participate; however, it did offer the notes she made during the normal course of business regarding the conversation in question. In her notes, Speed stated that the claimant did not request another assignment. The claimant was present at the hearing and credibly testified he requested another assignment. He was under oath, made eye contact with the administrative law judge while testifying, and was subject to cross-examination. As Speed was not present for the hearing, similar observations could not be made about her demeanor and she was not available for cross-examination. As the claimant

presented direct, first-hand testimony while the employer relied upon second-hand reports or hearsay evidence, the administrative law judge concludes that the claimant's recollection of the events is more credible than that of the employer.

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. Since he had contact with the employer within three working days of the end of the assignment, requested reassignment, and there was no work available, no disqualification is imposed. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The April 23, 2018, reference 01, unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn