

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**LISA R COLVIN**  
Claimant

**L A LEASING INC**  
Employer

**APPEAL NO. 16A-UI-05673-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/15  
Claimant: Respondent (1)**

Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits  
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding  
Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated May 12, 2016, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 7, 2016. Claimant participated personally. Employer participated by Chad Baker and Tanner McCutcheon. Employer's Exhibit 1 was admitted into evidence.

**ISSUES:**

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

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned at West Rock on April 7, 2015, and was separated from the assignment, but not the employment, on October 20, 2015. Employer does have a policy that complies with the specific terms of Iowa Code § 96.5(1)j.

The closing of West Rock involved the loss of approximately 300 jobs. A good number of those jobs had been filled by employer's employees. Employer stated that there was a meeting wherein a representative of LA Leasing spoke with the employees to tell of the plant closing. Claimant stated that she was not present at any such meeting. Employer's witness additionally stated that he personally called up claimant to tell of the closing of the plant. Claimant stated that she was not called by employer's witness.

Claimant had been working every day at West Rock and claimant was consistent about being at work. Claimant stated that she went to employer soon after the ending of the job in order to pick up her paycheck. Claimant stated that she asked about additional employment at or around the time of her visit, but that employer did not have jobs available. Employer stated that it did have jobs available, but that claimant did not request another job.

Claimant stated that she had received unemployment payments over two weeks.

Employer did substantially participate in fact finding in this matter.

### **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.

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. 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 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. Claimant contacted the employer within three working days of the notification of the end of the assignment when she went to pick up her paycheck. Although employer did state that there were jobs available, this runs into direct odds with the fact that hundreds of people were let go from West Rock, with a large percentage of them being placed by employer. Even if there were some jobs available, the facts and circumstances of the situation, whereby many people placed at West Rock were all searching for a new job at the same time lead the administrative law judge to believe that (a) it would have been difficult to record all of the different employees' requests for new placements; and (b) said requests for jobs far outstripped the number of placements available. Since there were no additional assignments, benefits are allowed.

**DECISION:**

The May 12, 2016, (reference 02) 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.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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