

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARA M NGOIE

Claimant

APPEAL 21A-UI-10551-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC

Employer

OC: 02/07/21

Claimant: Appellant (1)

Iowa Code § 96.5(1)J – VQ – Temporary employment firm

Iowa Admin. Code r. 871-24.26(15) – VQ – Employee of Temporary Employment Firm

STATEMENT OF THE CASE:

Claimant filed an appeal from the March 25, 2021 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 30, 2021, at 8:00 a.m. Claimant participated. French interpretation was provided by Moussa (ID# 10761) of CTS Language Link. Employer participated through Rhonda Heffer, Human Resources Manager. Claimant's Exhibit A was admitted. Employer's Exhibit 1 was not admitted.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant made a timely request for another job assignment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time by QPS Employment Group, a temporary employment firm, from August 19, 2019, until her employment ended on February 1, 2021. Claimant's sole assignment was as a Packer at Raining Rose. On February 1, 2021, employer informed claimant that her assignment was completed.

Employer has a policy that requires employees to request a new assignment within three working days of completing an assignment. (Exhibit A, p. 2) The policy is in writing and is a document separate from the employee handbook. (Exhibit A, p. 2) The policy states that failure to request a new assignment within three days will be considered quitting employment and may result in disqualification for unemployment benefits. (Exhibit A, p. 2) Claimant signed the policy and received a copy of the policy. (Exhibit A, p. 2)

Claimant did not request a new assignment from employer, because she was waiting to be recalled by Raining Rose.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied.

Iowa Code section 96.5(1)(j) provides:

An individual shall be disqualified for benefits

1. 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.

Iowa Admin. Code r. 871-24.26(15) 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:

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 had 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 accepted means of communications. Working days means the normal days in which the employer is open for business.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find employer's testimony to be more credible than claimant's testimony based upon the parties' conduct during the hearing. In contrast to employer, claimant interrupted the hearing repeatedly and unnecessarily, required multiple reminders of the hearing procedure and when she would have the opportunity to testify, ignored instructions regarding the use of an interpreter and provided answers that were not responsive to questions asked of her. Specifically, I find the claimant's testimony that she did not sign a copy of the policy to lack credibility. The signature on the policy is remarkably similar to claimant's signature on her letter to IWD; these documents are pages one and two of claimant's Exhibit A.

In this case, claimant completed her assignment at Raining Rose on February 1, 2021. Claimant did not request a new assignment from employer within three working days. Claimant was advised of the requirement to request a new assignment. Claimant signed a copy of the policy. Because claimant did not request a new assignment within three working days, claimant is considered to have voluntarily quit her employment with QPS Employment Group without good cause attributable to employer. According, claimant is not eligible for benefits.

DECISION:

The March 25, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Adrienne C. Williamson
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July 13, 2021
Decision Dated and Mailed

acw/lj