

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID MCCULLOUGH
Claimant

PREMIER STAFFING INC
Employer

APPEAL 20A-UI-07263-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: APPELLANT (2)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

On June 28, 2020, the claimant filed an appeal from the June 18, 2020, (reference 03) unemployment insurance decision that denied benefits based on voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 4, 2020. Claimant participated. Employer participated through Erica Peterson, Accounts Manager.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 11, 2019. Claimant last worked as a part-time Assistant Case Investigator. Claimant work as a temporary worker for the City of Waterloo Human Rights Commission (City of Waterloo). Claimant was separated from employment on August 30, 2019, when the City of Waterloo ended his assignment with the City of Waterloo. The City of Waterloo told claimant that he would be an employed through Premier Staffing, Inc. (Premier) not the City of Waterloo. The City of Waterloo contacted Premier and made arrangements so that claimant would report his hours and be paid by Premier. The City of Waterloo notified Premier on August 30, 2019 that they had terminated claimant due to attendance and performance issues.

Claimant testified that June through August 2019 he had a number of personal issues that impacted his ability to work for the City of Waterloo. Claimant was assisting his wife with medical issues. Claimant received a text message from the Director of the City of Waterloo Human Rights Department that stated he was costing the City of Waterloo more than he was worth. Claimant would communicate with the City of Waterloo via text and email and stopped receiving responses. Claimant informed the City of Waterloo about the medical issues he was dealing with his wife. Based upon the last text message and lack of responses to his communications claimant believed he was discharged.

Ms. Peterson testified that claimant had no direct contact with Premier and that Premier was contact by the City of Waterloo to have Premier put claimant on their payroll. Ms. Peterson said this employment relationship with claimant was not the typical relationship by Premier and employees.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In this case claimant was not hired by Premier to become a temporary employee as defined by Iowa Code section 96.5(1)j. Premier offered no evidence that claimant was required to report to work after completion of his assignment. No separate document signed by the claimant was entered into the record or testified to by the employer that would allow claimant to be categorized as a temporary employee under 96.5(1)j.

The employer did not contact claimant after it received notification that claimant's assignment was over. Based upon the evidence presented there is no evidence that claimant quit his employment with Premier. Rather his assignment was ended by the City of Waterloo. There is no convincing evidence that claimant voluntarily quit or committed misconduct concerning his employment with Premier. Premier is the employer for this unemployment case, not the City of Waterloo. I find that Iowa Admin. Code r. 871-24.26(19) is the applicable section of the law and claimant's assignment had ended. Claimant was not required to report for a new assignment. I find claimant is eligible for unemployment insurance benefits.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 18, 2020, (reference 03) unemployment insurance decision is reversed. Benefits are awarded, provided he is otherwise eligible.



James F. Elliott
Administrative Law Judge

August 17, 2020
Decision Dated and Mailed

je/scn