

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JESSICA L ROBINSON**  
Claimant

**RANDSTAD US LLC**  
Employer

**APPEAL 17A-UI-05986-DL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/30/17**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 1, 2017, (reference 02) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on June 26, 2017. Claimant participated. Employer participated through assistant marketing manager Danielle May. Department's Exhibit D-1 was received.

**ISSUES:**

Is the appeal timely?

Did 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: Claimant was receiving in-patient treatment from the end of May 2017, through June 14, 2017. She received the decision on June 12 and filed her appeal on June 14, 2017. (Department's Exhibit D-1)

Claimant was employed as a full-time mortgage claims analyst assigned at Wells Fargo through April 21, 2017. Randstad recruiter Aaron Whitmer told her the assignment had ended. He did not direct her to submit an updated resume. She asked if there was other work for her. He said there was not at that office but he would send her resume to the other Des Moines office desk in the same room. The employer witness does not record or log information when employees call in to make contact or when she communicated with Whitmer, but relies on her memory.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue to be considered in this appeal is whether claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. *Initial determination.* A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the unemployment insurance decision by the deadline because the decision was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). She filed the appeal within two days of receipt. Therefore, the appeal shall be accepted as timely.

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

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.

May's reliance on her memory about a hearsay conversation with Whitmer about claimant two months prior to the appeal hearing is simply not credible. 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 she contacted the employer within three working days of the notification of the end of the assignment, credibly requested reassignment, and there was no work available, no disqualification is imposed.

**DECISION:**

The June 1, 2017, (reference 02) unemployment insurance decision is reversed. The claimant's appeal is timely. Her separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/rvs