

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

PEGGY J SANCHEZ
Claimant

APPEAL NO. 12A-UI-04318-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 03/11/12
Claimant: Respondent (1)

Section 96.5-1-j – Voluntary Quit/Failure to Seek Re-Assignment
871 IAC 24.16(19) – Temporary Job Completion

STATEMENT OF THE CASE:

The employer appealed from a representative's decision dated April 10, 2012, reference 01, that held claimant completed her temporary job assignment on March 9, 2012, and benefits are allowed. A telephone hearing was held on May 8, 2012. The claimant participated. Sarah Fiedler, Claims Administrator, participated for the employer. Employer Exhibits 1 & 2 was received as evidence.

ISSUE:

Whether claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The claimant first began a work assignment in September 2010. Before starting her next work assignment, she signed an employer policy that provides she must seek re-assignment within three days of job completion. The claimant last worked a long-term assignment at S & J Tube Corporation from September 22, 2011 to March 9, 2012. She worked as a full-time production laborer.

Claimant reported on Monday, March 12 to S & J that she would miss work due to illness. The next day, an employer representative advised claimant not to return to the assignment per S & J request. She asked for her personal representative who has been her contact person for further work, as she wanted to know about any other assignment, but she was not available. She attempted to contact her representative the next two days without success.

The employer records a claimant effort to seek further work on March 20 and it re-activated her account. It offered her a work assignment at Fabricators Plus on April 9 that claimant accepted and started working on April 12.

REASONING AND CONCLUSIONS OF LAW:

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. 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.

871 IAC 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 administrative law judge concludes the claimant voluntarily quit with good cause attributable to her employer on March 13, 2012 when the employer notified claimant not to return to her work assignment that S & J ended due to absenteeism.

The employer documentation establishes claimant did not complete an ongoing assignment, because its client ended the assignment due to absences. The employer is attempting to skirt the law saying claimant completed an assignment she did not. The employer chose not to end claimant's employment because its client ended the work assignment. The notification law applies only to work "completed" work assignments. Claimant had no idea she was not to report for further work until the employer called on March 12 to tell her not to do so.

Since the job completion notification requirement is not applicable this employment separation is considered a voluntary quit with good cause based on 871 IAC 24.26(19). The employer chose to notify claimant her job was complete and re-activated her employment status to the point she was offered and accepted a new assignment on April 9. Therefore, this is not a discharge from employment situation.

DECISION:

The department decision dated April 10, 2012, reference 01, is affirmed. The claimant voluntarily quit with good cause on March 13, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs