

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WINFRED T DAVIS
Claimant

APPEAL NO. 11A-UI-02847-VS

**ADMINISTRATIVE LAW JUDGE
DECISION**

PAYROLL TAX DEPT
Employer

**OC: 01/23/11
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
Section 96.5-1-J – Separation from Temporary Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 8, 2011, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 14, 2011, in Davenport, Iowa. Claimant participated. The claimant was represented by John Graupmann. Employer participated by Phillip Schueller, branch manager. The record consists of the testimony of Winfred Davis; the testimony of Phillip Schueller; Claimant's Exhibit A; and Employer's Exhibits 1-3.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency. The claimant applied for work and signed a dispatching and employment agreement on June 10, 2010. (Exhibit 3) He also signed an Iowa addendum on June 10, 2010. In that addendum, the claimant acknowledged that the failure to notify the employer of the completion of an employment assignment within three working days of each employment assignment under a contract of hire shall be deemed a voluntary quit and may be grounds for denial of unemployment benefits. (Exhibit 1)

The claimant's last assignment for the employer was on October 29, 2010. The claimant never contacted the employer to ask for another assignment after that job was finished. The employer did call the claimant on November 1, 2010, and asked if he wanted to work at the same assignment that he had on October 29, 2010. The claimant had other things going on and refused the job.

REASONING AND CONCLUSIONS OF LAW:

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.

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 § 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 § 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 evidence in this case established that the claimant last worked for the employer on October 29, 2010. The claimant never contacted the employer after that to request another assignment. The employer contacted the claimant on November 1, 2010, and the claimant refused the assignment. The evidence was mixed on whether the claimant may have been contacted in November 2010 or December 2010 for a job in Fort Madison. Mr. Schuller had no personal knowledge or records about the claimant being contacted for a job in Fort Madison.

Even if the employer had contacted the claimant about a job in November 2010 or December 2010, the claimant was still a voluntary quit due to his failure to request another assignment after the completion of his assignment on October 29, 2010. The claimant clearly signed a document that stated he was required to request another assignment within three days or he would be considered a voluntary quit. The claimant testified that he did not remember that requirement although he acknowledged that he did sign the Iowa addendum. The claimant was clearly not interested in accepting assignments from the employer due to his failure to contact the employer. The employer complied with Iowa law concerning separation from temporary employment. The claimant is deemed a voluntary quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The decision of the representative dated March 8, 2011, reference 02, is affirmed. Unemployment insurance benefits shall be withheld 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.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs