

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEX GLAY
Claimant

APPEAL NO: 14A-UI-07523-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 01/05/14
Claimant: Respondent (1)

Section 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 14, 2014, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 13, 2014. The claimant did not respond to the hearing notice by providing a phone number where he could be reached at the date and time of the hearing as evidenced by the absence of his name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The claimant did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Rhonda Heffter de Santistevan, Human Resources Supervisor and Sandy Hernandez, Receptionist, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time first shift packer for Kent Nutrition Group from January 13, 2014 to January 24, 2014. The claimant completed his assignment after he was tardy January 21, for unknown reasons, was absent January 22, 2014, because he did not have a ride, and was originally tardy January 24, 2014, because of car problems but later called back and stated he would not be in at all. The client subsequently ended his assignment January 24, 2014. After the assignment ended, the claimant went in to the employer's office on the second business day following the completion of his assignment, January 28, 2014, but did not specifically ask about further work.

The claimant signed the employer's policy requiring him to check in with the employer within three days after the end of an assignment April 12, 2013.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment 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. 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.

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.

The employer requires employees to “contact QPS for reassignment” within three business days of the completion of their last assignment. The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. In this case, the claimant reported to the employer January 28, 2014, which was within two business days of the completion of his assignment. While he went in to sign a warning letter he did report to the employer’s office and simply because he did not utter a specific word or phrase the employer determines he did not contact it for reassignment. This case should not turn on semantics. The claimant reported within three business days. That is evidence of his intent to seek further assignment. Therefore, benefits are allowed. .

DECISION:

The July 14, 2014, reference 02, decision is affirmed. The claimant’s separation was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css