

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRISTAN Z KINNEY
Claimant

RIVERSIDE STAFFING SERVICES INC
Employer

APPEAL 21A-UI-04687-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/15/20
Claimant: Appellant (1)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

On February 3, 2021, Tristan Z. Kinney (claimant) filed an appeal from the January 25, 2021, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with Riverside Staffing Services, Inc. (employer) for personal reasons. The parties were properly notified about the hearing held by telephone on April 13, 2021. The claimant participated personally. The employer participated through Karrie Lensch, Operations Manager. No exhibits were offered into the record.

ISSUE:

Did the claimant voluntarily quit employment with good cause attributable to the employer or did the employer discharge the claimant for job related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed in a temporary, seasonal, full-time position as a General Laborer for QCA Pools and Spas beginning on September 6, 2019, and his assignment ended for the season on November 12, 2020. The employer has a policy that an employee must contact them within three days of the end of an assignment to seek more work. The claimant was given a copy of the policy.

On November 18, the claimant contacted Karrie Lensch, Operations Manager, to notify her of the layoff. Lensch told the claimant that they had other assignments available; however, the claimant declined the other assignments so he could collect unemployment insurance benefits and because he had a fear of COVID-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer. Benefits are denied.

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.

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. The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an assignment *and* who seeks reassignment." (Emphasis supplied.) In this case, the claimant did not notify the employer of the end of the assignment within three days as required by the employer's reporting policy and refused the available assignments. Therefore, he is considered to have quit the employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The January 25, 2021, reference 01, unemployment insurance decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until he works and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Stephanie R. Callahan
Administrative Law Judge

April 16, 2021
Decision Dated and Mailed

src/ol

Note to Claimant:

This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to self-certify for PUA to determine your eligibility under the program.** Additional information on how to self-certify for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.