

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JODIE M FRAYNE

Claimant

APPEAL 19A-UI-06460-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING INC

Employer

OC: 07/21/19

Claimant: Respondent (1)

Iowa Code § 96.5(1) – Voluntary Quitting

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

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer/appellant filed an appeal from the August 12, 2019 (reference 02) unemployment insurance decision that allowed benefits to the claimant based upon her separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on September 9, 2019. The claimant, Jodie M. Frayne, participated personally. The employer, Sedona Staffing Inc., participated through witnesses Joe Vermuelen and Colleen McGuinty. Claimant's Exhibits A through F were admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records, including the fact-finding documents.

ISSUES:

Did the claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can any charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a temporary employment firm. On February 21, 2019, the claimant had completed paperwork with the employer, including signing the employer's availability statement. She received a copy of the availability statement.

Claimant received her job assignment from the employer to work Nordstrom Distribution Center. Claimant began her assignment on March 18, 2019. Claimant's job duties included processing clothing. See Exhibit F. The claimant did not like the type of work she was doing at the distribution center and preferred office work instead of warehouse work. On March 18, 2019, claimant notified Nordstrom that she would no longer be available for the job assignment due to her having to travel out of state for family reasons.

On March 18, 2019 at 10:37 a.m., Heather Schmitt, Account Manager at the employer, sent claimant an email telling her that she found her a temporary customer service role, starting immediately and lasting for about 30 days. See Exhibit A. Ms. Schmitt asked claimant to let her know if she would be available for that position. See Exhibit A. Claimant responded to Ms. Schmitt at 2:51 p.m. on March 18, 2019 by email stating, "[t]his sounds great. Let me know when and where." See Exhibit A. When claimant did not hear back from Ms. Schmitt about the customer services role, she emailed her on March 21, 2019 stating, "I was curious when I would hear whether or not I got this job." See Exhibit A. Claimant did not hear back from Ms. Schmitt.

Claimant received benefits in the amount of \$1,216.00 for the six weeks between July 21, 2019 and August 31, 2019. The employer participated in the fact-finding interview through witness Colleen McGuinty.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was not disqualifying. Benefits are allowed, provided the claimant is otherwise eligible.

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. (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.

Iowa Admin. Code r. 871-24.26(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

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." Since she contacted the employer on March 21, 2019, which was within three working days of the notification of the end of the assignment, and requested reassignment to the customer services position, and there was no work available, no disqualification is imposed. As such, the separation is not disqualifying. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The August 12, 2019 (reference 02) unemployment insurance decision is affirmed. The claimant's separation was not disqualifying. Benefits are allowed, provided claimant is otherwise eligible.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/scn