

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL ORTON
Claimant

APPEAL NO: 14A-UI-01231-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/05/14
Claimant: Respondent (2-R)

Section 96.5(1) – Voluntary Leaving
871 IAC 24.26(19 & 22) – Voluntary Leaving
Section 96.5-1-j – Reassignment from Employer

STATEMENT OF CASE:

The employer filed a timely appeal from the January 30, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 25, 2014. The claimant participated in the hearing. Sarah Fiedler, Human Resources Generalist and Mary Kirchner, Branch Manager, participated in the hearing on behalf of the employer.

ISSUES:

The issues are whether the claimant voluntarily left his employment and whether he 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 floater for Team Staffing Solutions last assigned to Trinity Supply Chain from July 29, 2013 to January 7, 2014. The client ended the claimant's assignment without explanation. The employer notified the claimant his assignment was over and the claimant indicated he would seek work on his own because he had not had "very good luck with jobs in Muscatine" and because his first assignment, which lasted one week, paid \$10.75, his second assignment, which lasted five weeks, paid \$9.85, and his final assignment, which lasted approximately five months, paid \$9.00. The claimant stated he could not support himself on \$9.00 per hour and consequently he was going to look for work elsewhere.

The claimant has claimed and received unemployment insurance benefits since his separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was disqualifying as the claimant failed to report for further assignments and quit his job with the employer.

Iowa Code section 96.5-1 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.

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.

The client ended the claimant's assignment January 7, 2014, without offering an explanation. There has been no showing of misconduct on the part of the claimant and he did not voluntarily leave his assignment.

The remaining issue is whether the claimant sought reassignment from the employer. 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 did elect not to seek further assignments from

this employer because his pay dropped with each assignment and he could not live on \$9.00. He told the employer he no longer wanted to receive assignments from it because the pay was too low. Therefore, he is considered to have quit the employment. Consequently, benefits must be denied.

The issue of whether the claimant is overpaid benefits and if so, whether he must repay those benefits, was not listed as a potential issue on the hearing notice and must be remanded to the Claims Section for a determination of the overpayment amount and whether the claimant must repay the benefits.

DECISION:

The January 30, 2014, reference 01, decision is reversed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible. The issue of whether the claimant is overpaid benefits is remanded to the Claims Section for an initial determination and adjudication.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs