

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCKUS D SIMMONS
Claimant

APPEAL NO: 19A-UI-02581-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RJK INC
Employer

OC: 03/03/19
Claimant: Appellant (1)

Iowa Code section 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 22, 2019, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 12, 2019. The claimant participated in the hearing. Mike Thomas, Account Manager, 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 lab technician for RJK Inc. last assigned at GPC from November 5, 2018, to February 18, 2019. The claimant's last day worked was February 4, 2019, as he was suffering from an illness. He was hospitalized from February 5 through February 7, 2019. He provided the employer with a medical note excusing him from work until February 15, 2019. On February 14, 2019, the site supervisor called the claimant and said the client was waiting for the claimant to be cleared to return to work. On February 15, 2019, the claimant provided the employer with another medical note excusing him from work until February 22, 2019. The client notified the employer February 18, 2019, that the claimant's absence was too long and it did not want him to return and the employer notified the claimant the assignment was over.

The employer has a policy that requires employees to report to the employer for further assignment within three days upon the completion of an assignment. The employer provides the employee a copy of the policy that the employee signs indicating he understands the policy. After the assignment ended February 18, 2019, the claimant failed to report to the employer within three working days as required by written policy and he had no further communication with the employer.

REASONING AND CONCLUSIONS OF LAW:

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

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.

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 client ended the claimant's assignment due to a two week absence. His absence was due to illness and was properly reported. Because there was no misconduct and the claimant did not quit the assignment with GPC, the employer continued the claimant's employment with RJK, meaning he was still considered an employee of RJK and eligible for further assignments.

The remaining issue is whether the claimant sought reassignment from the employer within three business days of the end of his 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's assignment ended February 18, 2019, but he was excused from work until February 22, 2019. Even if the administrative law judge finds the claimant's three days to seek reassignment did not start until February 22, 2019, it has no bearing on the outcome of the case as the claimant never contacted the employer after February 15, 2019. Because the claimant gave the employer no notice of his availability he is considered to have quit the employment. Therefore, benefits must be denied.

DECISION:

The March 22, 2019, reference 02, decision is affirmed. 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn