

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LORI A GOODMAN
Claimant

AVENTURE STAFFING
Employer

APPEAL NO. 17A-UI-03610-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/26/17
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 22, 2017, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 27, 2017. Claimant participated personally. Employer participated by Toni Holguin. Employer's Exhibits 1-5 were admitted into evidence.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned at Brownell from October 17, 2016, and was separated from the assignment, but not the employment, on January 19, 2017. At the time the employer notified the claimant that the assignment had ended, it also advised the claimant that there were no additional assignments immediately available. Claimant was offered by employer that employer would be in touch with claimant when additional assignments became available.

When claimant was initially hired by employer, claimant signed multiple documents informing claimant that she must be in contact with employer within three days of the ending of an assignment, and indicate that she was still interested in future assignments. This was done in accordance with Iowa Code § 96.5(1)j.

Employer additionally gave information regarding claimant's lack of responses to employer's attempts to give claimant job offers. Since March 27, 2017 employer has attempted through different avenues to contact claimant with job offers fitting claimant's skill set. Claimant did not respond to employer's entreaties, saying that she had no phone service and that her car was broken down.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

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(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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability because they notified claimant of the end of the assignment. At the time of notice in the office of employer, employer stated to claimant that they would be in touch with claimant. It is inescapable for claimant to conclude that employer was going to contact claimant upon additional openings. As this is the case, the purposes of Iowa Code § 96.5(1)j, to inform the employer not only of the ending of the assignment, but also of claimant's ongoing desire for additional employment were met through the employer's statement. The only reasonable conclusion for employer's statement is that employer knew that claimant was looking for additional employment after the termination of her previous job, and that employer would contact claimant with additional job possibilities. This was also shown through employer's subsequent contact to claimant in March of 2017 with job opportunities. Since there were no additional assignments available at the time claimant filed for benefits, benefits are allowed.

The administrative law judge asks that this matter be remanded to the fact finder to obtain further information regarding whether claimant continued to be able and available for work throughout the times she has been filing for unemployment benefits.

DECISION:

The March 22, 2017, (reference 02) unemployment insurance decision is reversed. The claimant's separation was attributable to the employer. Benefits are allowed.

This matter is remanded to the fact finder for a further determination on claimant's ongoing ability to be able and available for work throughout her time of filing for benefits.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn