

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICK G ROQUET
Claimant

APPEAL NO. 11A-UI-04852-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**L A LEASING INC
SEDONA STAFFING**
Employer

**OC: 03/06/11
Claimant: Respondent (2)**

Section 96.5-1-j – Voluntary Leave/Failure to Seek Reassignment from Temporary Employer
Section 96.3-7 – Benefit Overpayment

STATEMENT OF THE CASE:

Employer filed a timely appeal from a representative's decision dated April 6, 2011, reference 02, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on May 9, 2011. Although duly notified, the claimant did not respond to the notice of hearing and did not participate. The employer participated by Mr. Chad Baker, Workers' Compensation Administrator, and Margo Bojorequez.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: The claimant was employed by Sedona Staffing and was most recently assigned to work as a general laborer at the Farm Tech Company from January 3, 2011 until March 4, 2011 when the assignment ended.

At the time that Mr. Roquet accepted employment with Sedona Staffing he signed an agreement to contact the temporary employment service within three working days at the completion of his most recent assignment to inform the temporary employer that the assignment had ended and to provide notice to the temporary employer that he was available for work. When Mr. Roquet's assignment at the Farm Tech Company came to an end, he did not check in within three working days with Sedona Staffing to inform them of his availability. Mr. Roquet did not check back with Sedona Staffing until March 17, 2011 after the three working day period had elapsed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment without 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. 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.

871 IAC 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 § 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 § 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. Based upon the evidence in the record, the administrative law judge concludes that Mr. Roquet did not check in with Sedona Staffing within three working days of the completion of his last working assignment to provide notice to the temporary agency employer that he was available for work at the conclusion of his most recent temporary assignment. The claimant did not notify the employer of his availability until March 17, 2011 which was more than three working days after the claimant's last day of work on March 4, 2011. Benefits are withheld.

DECISION:

The representative's decision dated April 6, 2011, reference 02, is reversed. Claimant's separation from employment was not attributable to the employer. Claimant failed to make contact to inform the temporary employment service of his availability as required by statute. Benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs