

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KANE A HALSEY
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 21A-UI-16654-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/25/21
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Kane A Halsey., the claimant/appellant, filed an appeal from the July 27, 2021, (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on September 21, 2021. Mr. Halsey participated and testified. The employer participated through Melissa Lewien, risk management. The administrative law judge took official notice of the administrative record. Employer's Exhibits 1 and 2 were admitted as evidence.

ISSUE:

Did Mr. Halsey quit by not reporting for an additional work assignment within three business days of the end of the last assignment?
Is Mr. Halsey able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Halsey began working for the employer in 2018. His last assignment began on January 7, 2020. He worked as a full-time-time standup forklift driver on assignment to Lineage Logistics.

On May 1, 2020, Mr. Halsey told the employer that he had COVID-19 symptoms and that he was going to be tested for COVID-19. Per the employer's policy, Mr. Halsey began self-quarantining. On May 4, Mr. Halsey learned that he had tested positive for COVID-19. Per medical advice, Mr. Halsey began a fourteen day self-quarantine, which was to last until May 17. On May 5, Mr. Halsey called the employer and told them that he had tested positive for COVID-19. The employer told Mr. Halsey to contact them when his self-quarantine was over. Mr. Halsey understood that to mean that he was unassigned from his job at Lineage while he self-quarantined.

Before he had tested positive for COVID-19 Lineage Logistics told Mr. Halsey that they would hire him as a full-time employee. Mr. Halsey was eager to return to work and be hired by Lineage so he contacted Lineage while he was self-quarantining to ask them about returning to work. Lineage told the employer and the employer called Mr. Halsey on May 13. The employer spoke with Mr. Halsey and told him to stop contacting Lineage, and instead to contact the employer when his self-quarantine was over. Mr. Halsey contacted the employer on May 18, when his self-quarantine was over to ask for work that paid at least \$15.00 per hour, which was his hourly pay when he worked at Lineage. Mr. Halsey also contacted the employer on July 28 and asked for assignment making at least \$15.00 per hour.

The employer's policy requires employees to contact the employer within three working days after their assignment ends to request a new assignment or the person will be considered to have voluntarily quit. Mr. Halsey acknowledged receiving the policy on December 31, 2018.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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 lettered paragraph:

(a) "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.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

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

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 had 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 accepted means of communications. Working days means the normal days in which the employer is open for business.

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. 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."

In this case, Mr. Halsey's did notify the employer of his availability, or request another assignment when his self-quarantine ended. Mr. Halsey satisfied the requirements of the law and did not quit employment with this employer. Benefits are allowed.

DECISION:

The July 27, 2021, (reference 03) unemployment insurance decision is reversed. Mr. Halsey did notify the employer in the requirement time period, and he did not quit. Benefits are allowed, provided he is otherwise eligible.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

September 24, 2021
Decision Dated and Mailed

dz/mh