

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KORY D SPICER
Claimant

SEDONA STAFFING INC
Employer

APPEAL 21A-UI-01411-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

On December 19, 2020, Kory D. Spicer (claimant) filed an appeal from the December 14, 2020, reference 01, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with Sedona Staffing, Inc. (employer) and failed to show he quit with good cause attributable to the employer. The parties were properly notified about the hearing held by telephone on February 18, 2021. The claimant participated personally. The employer participated through Edith Rubalcava, Risk Administrator, and Sandy Ford, Branch Manager. No exhibits were offered into the record.

ISSUE:

Did the claimant quit by not reporting for additional work assignments 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: On May 19, 2020, the employer hired the claimant and they completed his new hire paperwork. The employer has a policy stating an employee needs to request reassignment within three days of the end of an assignment or they will be considered to have voluntarily quit. The claimant received copy of that policy.

On May 28, the claimant was assigned to a temporary full-time production position for the employer's client International Ingredients. The claimant's assignment ended on September 30. Sandy Ford, Branch Manager, notified the claimant of the end of his assignment and the claimant requested another assignment in the same conversation, but the employer did not have anything at that time. The claimant filed his claim for benefits effective October 11.

On October 23, the claimant was offered a temporary position at Wyland and Sons. The claimant reported to work on October 26 and only worked an hour and a half before leaving because he felt overwhelmed. The next time the claimant and employer had contact was November 9, when the claimant texted Ford seeking another assignment.

The claimant reported to an assignment with Laddawn on November 25; but he left after only three hours. On December 4, the claimant contacted Ford to let her know that the assignment did not work out for him. He did not request a new assignment at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer on or about October 26, 2020. Benefits are denied effective October 25, 2020.

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.

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.” (Emphasis supplied.)

In this case, the claimant requested another assignment within three days of the end of his assignment from International Ingredients and the employer did not have one. Therefore, he was unemployed with good cause attributable to the employer. Benefits are allowed from October 11 through October 24, 2020, provided the claimant is otherwise eligible.

However, following the assignment with Wyland and Sons, the claimant did not notify the employer of the end of the assignment, his availability, or request another assignment within three days, as required by the employer’s policy. Therefore, he is considered to have quit employment without good cause attributable to the employer. Benefits are denied effective October 25, 2020.

DECISION:

The December 14, 2020, reference 01, unemployment insurance decision is modified in favor of the appellant. The claimant was unemployed with good cause attributable to the employer from October 11 through October 24. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid. However, the claimant’s separation on October 26 was not attributable to the employer. Benefits are withheld effective October 25, until the claimant works and is paid insured wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Stephanie R. Callahan
Administrative Law Judge

March 1, 2021
Decision Dated and Mailed

src/kmj