

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TROY L REMMERS
Claimant

ECI JOBS INC
Employer

APPEAL 18A-UI-12403-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/24/18
Claimant: Appellant (2R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 19, 2018 (reference 03) unemployment insurance decision that denied benefits based upon a finding that he voluntarily quit his employment by failing to notify the temporary employment firm within three working days of the completion of his last work assignment and requesting additional work. The parties were properly notified of the hearing. A telephone hearing was held on January 15, 2019. The claimant, Troy L. Remmers, participated personally. The employer, ECI Jobs Inc., participated through witness Tammy Christenson. Employer's Exhibits 1 through 3 were admitted.

ISSUES:

Did the claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant was a temporary employee of a temporary employment firm. On October 25, 2018, the claimant completed paperwork with the employer, including signing the employer's Iowa Model UI Provision. See Exhibit 4. A copy of this written policy was provided to the claimant at the time of signing.

Claimant received his job assignment from the employer to work full-time at Pure Fishing. Claimant was assigned to the bait department. This job assignment began October 29, 2018 and ended on November 27, 2018. The reason the job assignment ended was because Pure Fishing management believed that claimant would continue to have absences from work.

On November 28, 2018, Deb Lenz contacted the claimant by telephone to inform him that his job assignment with Pure Fishing had been ended by the client. Claimant requested additional

work during that telephone conversation and Ms. Lenz told claimant that there was no additional work at that time. On December 3, 2018, claimant returned his badge to Ms. Lenz and Joan Clark at the employer's office. Claimant and Ms. Clark discussed a possible job placement in Estherville, Iowa at that time.

Claimant currently has a broken foot and other medical issues with his other foot. He has been hospitalized beginning Monday, January 14, 2019. Claimant had been hospitalized on other occasions. The issue of whether the claimant has been able to and available for work due to his various medical issues and hospitalizations has not been adjudicated by the Benefits Bureau of Iowa Workforce Development. The question of whether the claimant has been able to and available for work for each week he has filed his weekly-continued claims since December 2, 2018 and whether he is currently able to and available for work will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since he was contacted by the employer on the day he was notified his job assignment was ending (which was within three working days of the notification of the end of the assignment), requested reassignment, and there was no work available, no disqualification is imposed. As such, the claimant complied with Iowa Code section 96.5(1)j and he did not voluntarily quit without good cause attributable to the employer. The separation is not disqualifying. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The December 19, 2018 (reference 03) unemployment insurance decision is reversed. The claimant's separation from employment was not disqualifying. Benefits are allowed, provided he is otherwise eligible.

REMAND:

The issue of whether the claimant has been able to and available for work for each week he has filed his weekly-continued claims since December 2, 2018 and whether he is currently able to and available for work due to his various health issues and hospitalizations will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs