

**STATE OF FLORIDA**  
**REEMPLOYMENT ASSISTANCE APPEALS COMMISSION**

In the matter of:

Claimant/Appellant

R.A.A.C. Order No. 14-02528

vs.

Referee Decision No. 0022159187-02U

Employer/Appellee

---

**ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION**

---

This case comes before the Commission for disposition of the claimant's appeal pursuant to Section 443.151(4)(c), Florida Statutes, of a referee's decision holding the claimant disqualified from receipt of benefits.

Pursuant to the appeal filed in this case, the Reemployment Assistance Appeals Commission has conducted a complete review of the evidentiary hearing record and decision of the appeals referee. *See* §443.151(4)(c), Fla. Stat. By law, the Commission's review is limited to those matters that were presented to the referee and are contained in the official record.

The issue before the Commission is whether the claimant was discharged by the employer for misconduct connected with work as provided in Section 443.101(1), Florida Statutes.

The referee's findings of fact state as follows:

The Claimant began working as a leased employee on 08/19/2014 for [the employer]. At the time of hire with the employer, the claimant was given the employer's handbook which instructed the claimant that she must report back for reassignment once a job had ended. The claimant signed receipt and acknowledgement of the handbook. On 03/20/2014, the claimant was discharged from [the client company] that she was on assignment with due to absenteeism. After [being] discharged from the client company the claimant did not make contact with [the employer] at any point in order to be reassigned.

Based on these findings, the referee held the claimant voluntarily left work without good cause attributable to the employing unit. Upon review of the record and the arguments on appeal, the Commission concludes the referee's decision is not supported by competent, substantial evidence, and, further, is not in accord with the law; accordingly, it is reversed.

Section 443.101(10)(b), Florida Statutes, provides, in pertinent part:

A temporary or leased employee is deemed to have voluntarily quit employment and is disqualified for benefits . . . if, upon conclusion of his or her latest assignment, the temporary or leased employee, without good cause, failed to contact the temporary help or employee-leasing firm for reassignment, if the employer advised the temporary or leased employee at the time of hire and that the leased employee is notified also at the time of separation that he or she must report for reassignment upon conclusion of each assignment, regardless of the duration of the assignment, and that reemployment assistance benefits may be denied for failure to report.

The referee held the claimant disqualified reasoning that she voluntarily quit when she failed to report back to the employer staffing agency for reassignment when her assignment with the client ended. Contrary to the referee's reasoning, the employer did not establish the requirements of Section 443.101(10)(b), Florida Statutes, were met; consequently, the claimant cannot be considered to have voluntarily quit her position. Since the claimant worked for the employer as a leased employee, the employer was required to advise the claimant at the time of hire and at the time her assignment ended that she must report back to the employer for reassignment and that reemployment assistance benefits may be denied for her failure to do so. Although the employer asserted the claimant was advised to report back to the employer for reassignment in the employee handbook, there is no competent evidence in the record to establish that the claimant was advised at the time her assignment ended that she had to report back to the employer for reassignment or it could affect her reemployment assistance benefits. Moreover, the employer cannot use a policy provision to circumvent its compliance with the statutory provision at the time the assignment ends. Since the requirements of Section 443.101(10)(b), Florida Statutes, were not satisfied, the Commission concludes the claimant was discharged for reasons other than misconduct connected with work as that term is used within the meaning of the reemployment assistance law.

The decision of the appeals referee is reversed. If otherwise eligible, the claimant is entitled to benefits.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman  
Thomas D. Epsky, Member  
Joseph D. Finnegan, Member

This is to certify that on

10/10/2014,

the above Order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.

By: Kimberley Pena

Deputy Clerk



DEPARTMENT OF ECONOMIC OPPORTUNITY  
REEMPLOYMENT ASSISTANCE PROGRAM  
PO BOX 5250  
TALLAHASSEE, FL 32314 5250



\*26737451 \*

---

---

**Docket No.0022 1591 87-02**

Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

---

***CLAIMANT/Appellee***

***EMPLOYER/Appellant***

---

APPEARANCES

Claimant

---

### **DECISION OF APPEALS REFEREE**

**Important appeal rights are explained at the end of this decision.**

**Derechos de apelación importantes son explicados al final de esta decisión.**

**Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.**

**Issues Involved:** SEPARATION: Whether the claimant was discharged for misconduct connected with work or voluntarily left work without good cause as defined in the statute, pursuant to Sections 443.101(1), (9), (10), (11); 443.036(30), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

**FINDING OF FACTS:**The Claimant began working as a leased employee on 08/19/2014 for  
At the time of hire with the employer, the claimant was given the  
employer's handbook which instructed the claimant that she must report back for

reassignment once a job had ended. The claimant signed receipt and acknowledgement of the handbook. On 03/20/2014, the claimant was discharged from the client company that she was on assignment with due to absenteeism. After being discharged from the client company the claimant did not make contact with \_\_\_\_\_ at any point in order to be reassigned.

**CONCLUSION OF LAW:** The law provides that a leased employee of an employee leasing company voluntarily quit employment and is subject to disqualification if:

- a. the leasing company employer advised the leased employee at the time of hire and at the time of separation to report for reassignment upon the conclusion of each assignment, and
- b. the leased employee was notified at the time of hire and at the time of separation that failure to report for reassignment may result in denial of Reemployment Assistance benefits, and
- c. the leased employee failed, without good cause, to contact the leasing company employer for reassignment upon conclusion of the latest assignment.

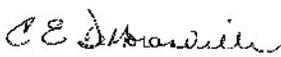
The record reflects that the claimant voluntarily quit. The burden of proof is on the claimant who voluntarily quit work to show by a preponderance of the evidence that quitting was with good cause. The employer testified that the claimant quit without notification by never returning back to the staffing agency for reassignment. The employer testified that if the claimant felt like the pregnancy may have been an issue, they could have given the claimant a more suitable employment opportunity that would facilitate her situation. The claimant testified that the reason she did not report back to the staffing agency was because the employer made her feel like they were not willing to assist her. The claimant did not exercise employer's policy that required her to report back after conclusion of her latest assignment. Therefore, based upon the claimant's actions or lack thereof, she is DISQUALIFIED from the receipt of benefits.

**DECISION:** the determination dated 04/03/2014, holding the Claimant entitled to receive benefits for the period beginning 03/16/2014, if otherwise eligible is REVERSED. The claimant is ineligible from the receipt of benefits from 03/16/2014 and until she earns \$3,621.00.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision was distributed to the last known address of each interested party on May 6, 2014

**CANDRA PELLOT-STOKES**  
Appeals Referee

By: 

CONNIE DEMORANVILLE, Deputy Clerk

**IMPORTANT - APPEAL RIGHTS:** This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the mailing date shown. If the 20<sup>th</sup> day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.004, filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

**A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at [connect.myflorida.com](https://connect.myflorida.com) or by writing to the address at the top of this decision. The date of the confirmation page will be the filing date of a request for reopening on the Department's Web Site.**

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); <https://raaciap.floridajobs.org>. If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

**IMPORTANTE - DERECHOS DE APELACIÓN:** Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la fecha marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.004, el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [*pago excesivo de beneficios*] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

**Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en [connect.myflorida.com](https://connect.myflorida.com) o escribiendo a la dirección en la parte superior de esta decisión. La fecha de la página de confirmación será la fecha de presentación de una solicitud de reapertura en la página de Internet del Departamento.**

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Servicios de Reempleo; Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); <https://raaciap.floridajobs.org>. Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket number*] y el número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

**ENPÒTAN - DWA DAPÈL:** Desizyon sa a ap definitiv sòf si ou depoze yon apèl nan yon delè 20 jou apre dat nou poste sa a ba ou. Si 20<sup>yèm</sup> jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.004, depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

**Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, [connect.myflorida.com](https://connect.myflorida.com) oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat cofimasyon page sa pral jou ou ranpli deman pou reouvewti dan web sit depatman.**

Yon pati ki te asiste odyans la epi li resevwa yon desizyon negatif kapab soumèt yon demann pou revizyon retounen travay Asistans Komisyon Apèl la, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Faks: 850-488-2123); <https://raaciap.floridajobs.org>. Si poste a, dat tenm ap dat li ranpli aplikasyon. Si fakse, men yo-a delivre, lage pa sèvis mesaje lòt pase Etazini Sèvis nan Etazini Nimewo, oswa soumèt sou Entènèt la, dat yo te resevwa ap dat li ranpli aplikasyon. Pou evite reta, mete nimewo rejis la ak nimewo sosyal demandè a sekirite. Yon pati pou mande revizyon ta dwe presize nenpòt ak tout akizasyon nan erè ki gen rapò ak desizyon abit la, yo epi bay sipò reyèl ak / oswa legal pou defi sa yo. Alegasyon sou erè pa espesyalman tabli nan demann nan pou revizyon yo kapab konsidere yo egzante.

---

An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711.