

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRYSTAL L VANROEKEL

Claimant

APPEAL NO. 10A-UI-15158-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES – MARSHALLTOWN

Employer

OC: 10/03/10

Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Crystal L. VanRoekel (claimant) appealed a representative's November 3, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Temp Associates – Marshalltown (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 14, 2010. The claimant participated in the hearing. Nancy Mullaney appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant's first and only assignment through the employer began on July 29, 2009, working full-time as a third shift production worker at the employer's Montezuma, Iowa, business client. Her last day of work was September 30, 2010. The assignment ended that date because the business client determined to end the assignment due to an attendance concern. The claimant had missed one day of work during the week of September 20; there was no information about any other absences or any warnings to the claimant.

The business client informed the employer its decision to end the assignment by an email on the morning of October 1, 2010. The employer then immediately called the claimant to inform her of the ending of the assignment. The claimant did not separately contact the employer within three days of the end of the assignment or subsequently once a week to explicitly seek reassignment as required by the employer's policies to avoid being considered to be a voluntary quit. She did recontact the employer on October 12 to inquire about the potential of part-time work, as she had determined to return to school; Agency records indicate that she was approved for Department-Approved Training (DAT) as of about October 23, 2010.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Where a temporary employment assignment has ended by the completion of the assignment and the employer is aware of the ending of that assignment, the employer is already on “notice” that the assignment is ended and the claimant is available for a new assignment; where the claimant knows that the employer is aware of the ending of the assignment, she has good cause for not separately “notifying” the employer and explicitly seeking a new assignment. 871 IAC 24.26(19).

Here, the employer was aware that the business client had ended the assignment; it considered the claimant’s assignment to have been completed. The claimant is not required by the statute to remain in regular periodic contact with the employer in order to remain “able and available” for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

While after the separation from the assignment the claimant may not have been able and available on the same basis because of returning to school, if she had DAT status she would not be required to remain able and available on the same basis. The employer would not be subject to charge for benefits paid to the claimant while she is in that status. Iowa Code § 96.4-3; Iowa Code § 96.4-6; 871 IAC 24.39.

DECISION:

The representative’s November 3, 2010 decision (reference 01) is reversed. The claimant’s separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw