

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLINA MARTINEZ
Claimant

APPEAL NO: 11A-EUCU-00742-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AXCESS STAFFING SERVICES LLC
Employer

**OC: 12/26/10
Claimant: Respondent (4)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Access Staffing Services, LLC (employer) appealed an unemployment insurance decision dated September 14, 2011, reference 04, which held that Carolina Martinez (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 16, 2011. The claimant participated in the hearing. Anna Pottebaum interpreted on behalf of the claimant. The employer participated through Dennis Panosh, On-Site Manager and Jamie Cooper, Employer Representative. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a full-time temporary laborer assigned to Rocktenn on September 28, 2009. The employer had more employees than work from January 2011 through May 2011. The claimant was prepared to report to work but was not always provided work. However, she subsequently returned to work full-time.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places an affirmative obligation on both the

employer and the employee which will affect whether or not unemployment benefits will be granted. The employer has the obligation to draft a policy that complies with the requirements of the statute. The employer must advise the employee in writing of the three-day notification rule. The employer must also notify the employee that she may be disqualified from receiving unemployment insurance benefits if she fails to contact the employer and request additional work. Iowa Code § 96.5-1-j.

The claimant has an obligation to actually make contact with the employer to let the employer know, not only that the assignment has ended, but also to indicate that she desires a further assignment. Even if the employer is aware the assignment has ended, that does not relieve the employee from indicating she is available to work and from requesting additional work.

In the case herein, the assignment is ongoing and the claimant must report for work each day if she wants to work. The claimant testified that she did report to work and the employer witness testified that sometimes there were more employees than work. The employer witness testified that the claimant could have worked more than she was working but failed to provide any definitive evidence to support that claim.

Consequently, the claimant's separation was with good cause attributable to the employer and she qualifies for partial unemployment benefits from December 26, 2010 through May 22, 2011, provided she is otherwise eligible.

DECISION:

The unemployment insurance decision dated September 14, 2011, reference 04, is modified in favor of the appellant. The claimant voluntarily quit her employment with good cause attributable to the employer. She is qualified to receive unemployment insurance benefits, from December 26, 2010 through May 22, 2011, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs