

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID W SCHMITZ**

Claimant

**APPEAL NO. 12A-UI-06668-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES - MARSHALLTOWN**

Employer

**OC: 05/06/12**

**Claimant: Respondent (1)**

Section 96.5-1-j – Voluntary Quit

**STATEMENT OF THE CASE:**

Temp Associates – Marshalltown filed a timely appeal from an unemployment insurance decision dated June 1, 2012, reference 01, that allowed benefits to David W. Schmitz. After due notice was issued, a telephone hearing was held June 28, 2012 with Nancy Malaney, the employer's manager in Grinnell, participating. Mr. Schmitz provided a telephone number at which he could be contacted. The number was answered by a recording at the time of the hearing. The administrative law judge left information for the claimant to call the Appeals Bureau if he wished to participate. There was no contact from the claimant while the hearing was in progress.

**ISSUE:**

Was the claimant's separation from employment a disqualifying event?

**FINDINGS OF FACT:**

David W. Schmitz was employed by Temp Associates – Marshalltown on assignment with their client, Brownell, from March 12, 2012 until the assignment ended April 30, 2012. Mr. Schmitz contacted Temp Associates within three working days thereafter to seek reassignment. None was available. On May 11, 2012, Mr. Schmitz advised Temp Associates that he was moving to Des Moines and would not be available for assignment in the Grinnell area.

**REASONING AND CONCLUSIONS OF LAW:**

The question here is whether Mr. Schmitz's move to Des Moines constituted a disqualifying separation from employment. It does not.

Iowa Code section 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. 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.

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.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The evidence in the record establishes that Mr. Schmitz met his end of the bargain created by Iowa Code section 96.5-1-j by seeking reassignment from Temp Associates within three working days after the assignment ended. There being no work at that time, the law considers Mr. Schmitz to have been on lay off which is not a disqualifying separation. An individual on lay off who advises the employer that they will not be returning is not disqualified for benefits. Mr. Schmitz, of course, must be available for work in his new local labor market area each week that he requests unemployment insurance benefits. The administrative law judge notes, however, that although Mr. Schmitz established a benefit year effective May 6, 2012, he has not actually requested benefits for any weeks.

**DECISION:**

The unemployment insurance decision dated June 1, 2012, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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