

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**PATRICIA A NELSON  
1341 FOREST AVE  
DES MOINES IA 50314**

**USA STAFFING INC  
LABOR WORLD OF IOWA  
3921 NE 14<sup>TH</sup> ST  
DES MOINES IA 50313**

**Appeal Number: 05A-UI-01799-DT  
OC: 01/02/05 R: 02  
Claimant: Appellant (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Patricia A. Nelson (claimant) appealed a representative's February 10, 2005 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from USA Staffing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 8, 2005. This appeal was consolidated for hearing with one related appeal, 05A-UI-01800-DT. The claimant participated in the hearing. Christin Wilson 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 began taking assignments through the employer on December 2, 2003. She had a long-term assignment through the business client that ended in approximately October 2004. She then had an assignment with a business client in Huxley, Iowa from October 16, 2004 through November 8, 2004, doing election-related calling. Her last day on that assignment was November 8, 2004. She would pick up daily work tickets from the employer's office, carpool with some other workers to Huxley, and the return to the employer's office, turn in her work ticket, and be paid. After completion of work on November 8, the business client's representative advised the claimant that the current assignment was completed but that there could be additional work available at a later time. The claimant returned to the employer and turned in her work ticket, which did not indicate that the claimant was to return the next day. At that time, no additional assignment through the employer was available.

The claimant's final assignment was on January 7, 2005. She worked from 2:30 p.m. that day until 4:30 a.m. on Saturday, January 8, 2005 doing truck loading at the employer's business client. Upon completion of the work that day, the business client's representative indicated that they were done with work for the week. The claimant returned to the employer's office on Monday, January 10, 2005, turned in the work ticket, and was told that no other work was available. The employer asserted but did not establish that there was continued work available for the claimant on the assignment on January 9, 2005 for which she failed to report or work.

REASONING AND CONCLUSIONS OF LAW:

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

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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

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.

Here, the employer knew or should have known that the business clients had considered the claimant's assignments to have been completed on each of November 8, 2004 and January 8, 2005. The claimant did report back to the employer after the completion of the assignments, but no other work was available; the separations are deemed to be completion of temporary assignment and not voluntary quits. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's February 10, 2005 decision (reference 02) 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.

ld/sc