

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**IAN M WILLIAMS**

Claimant

**APPEAL NO. 09A-UI-00993-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**

Employer

**OC: 12/14/08 R: 02  
Claimant: Respondent (5)**

871 IAC 24.26(19) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 14, 2009, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on February 10, 2009. Claimant Ian Williams participated. John Dunkin, Division Manager, represented the employer.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Ian Williams established his employment relationship with DES Staffing on August 18, 2008 and worked in two temporary employment assignments. The most recent assignment was a full-time, temporary assignment at Agripac in Boone. Mr. Williams started the assignment on October 20, 2008. Mr. Williams most recently performed work in the assignment on November 14, 2008.

On Friday, November 14, John Dunkin, Division Manager for DES Staffing in Ames, notified Mr. Williams that Agripac did not need Mr. Williams' services that day. Mr. Dunkin did not have clear information from Agripac regarding whether they were ending Mr. Williams's assignment. Mr. Dunkin did not know whether Agripac would need Mr. Williams' services the following week. Mr. Dunkin directed Mr. Williams to appear at the assignment on the following Monday and Mr. Williams agreed to do so. On Monday, November 17, Mr. Williams appeared for the assignment. The shift manager at Agripac told Mr. Williams that Agripac did not need Mr. Williams that day. The shift manager told Mr. Williams that he did not have clear information regarding whether the assignment was being ended. The shift manager directed Mr. Williams to call in each day to see whether his services were needed. Mr. Williams agreed to do so. Mr. Williams continued to contact Agripac each day through Friday, November 21, to inquire whether he could work, but was told each day that Agripac did not need his services that day.

On Friday, November 21, Mr. Williams concluded that Agripac was not going to have him continue in the assignment and that the assignment had ended. DES Staffing had not contacted Agripac to ascertain whether the client was ending the assignment.

On Friday, November 21, Mr. Williams went to DES Staffing to collect his paycheck for the week ending November 15. Mr. Williams asked Mr. Dunkin whether he had heard anything more from Agripac about Mr. Williams' assignment continuing or ending. Mr. Dunkin told Mr. Williams that he had not heard anything more, but that Agripac was slowing down and no longer needed his help. This was the first Mr. Dunkin was aware that Mr. Williams had not been performing services for Agripac during the week of November 17-21. Mr. Williams asked about a new assignment, but DES staffing did not have another assignment for him at that time.

When Mr. Williams commenced working through DES Staffing, he signed a stand-alone policy regarding his obligation to contact DES Staffing within three working days of the end of an assignment. Mr. Williams did not receive a copy of the policy.

### **REASONING AND CONCLUSIONS OF LAW:**

The weight of the evidence indicates that the client business and DES Staffing discharged Mr. Williams from the assignment solely because his services were no longer needed. Accordingly, the separation from the assignment would not disqualify Mr. Williams for unemployment insurance benefits. See Iowa Code section 96.5(2)(a) and 871 IAC 24.32(1)(a).

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.

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 weight of the evidence indicates that the employer had an end-of-assignment notification policy that complied with the requirements of Iowa Code section 96.5(1)(j). However, the evidence in the record indicates that Mr. Williams did not receive a copy of the policy, contrary to the requirements of the statute. Accordingly, the statute did not apply to Mr. Williams' employment. Because the requirements of the statute were not met, and because Mr. Williams completed the assignment at Agripac, any election on the part of Mr. Williams not to seek a new assignment would not disqualify him for unemployment insurance benefits. However, the evidence indicates that Mr. Williams was at all relevant times interested in maintaining his assignment at Agripac or gaining a new assignment. The weight of the evidence indicates that Agripac and DES Staffing were responsible for the confusion as to whether the assignment was ending. Mr. Williams simply demonstrated ongoing cooperation with the directives issued by DES Staffing and Agripac. As far as Mr. Williams knew, the assignment did not end until November 21, when Mr. Dunkin made clear that Mr. Williams was not going to continue in the assignment. Thus, even if the statute did apply, Mr. Williams demonstrated compliance with the letter and spirit of the statute.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Williams' separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Williams is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Williams.

**DECISION:**

The Agency representative's January 14, 2009, reference 02, decision is modified with no change in the claimant's eligibility or the employer's liability. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw