

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MAUREEN E TOBIN**  
Claimant

**APPEAL NO. 13A-UI-11248-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASTERSON PERSONNEL INC**  
Employer

**OC: 08/18/13**  
**Claimant: Appellant (2)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

Maureen Tobin filed a timely appeal from the September 19 2013, reference 03, decision that denied benefits in connection with an August 20, 2013 separation from the employer. After due notice was issued, a hearing was held on October 30, 2013. Ms. Tobin participated. Jim Robertson represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 13A-UI-11249-JTT. Exhibit One was received into evidence. The administrative law judge took official notice of the agency's administrative record (DBRO) of benefits disbursed to the claimant.

**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, Masterson Personnel, Inc., is a temporary employment agency. Maureen Tobin performed work in a full-time temporary work assignment at Premiere/Michael's Foods until the shift that started August 15, 2013, when she completed the assignment. Ms. Tobin worked the overnight shift and would start her work week on Monday evening and finish her work week on Saturday morning. A month before Ms. Tobin completed the assignment, the client business had warned of an impending temporary shutdown. After Ms. Tobin completed her final shift on Friday morning, August 16, 2013, she next had contact with Masterson Personnel, Inc., on Tuesday August 20, 2013 to inquire about what she was to do pending anticipated recall to Michael's Foods. The Masterson Personnel staff directed her to apply for unemployment insurance benefits. Ms. Tobin complied. On October 17, 2013, the employer recalled Ms. Tobin to perform additional work for the same client beginning November 1, 2013.

The employer has an end-of assignment notification policy that obligated Ms. Tobin to contact the employer within three working days of the end of the assignment to request additional work. The policy appears as a stand-alone policy set forth on a separate document and is not part of an employment contract. The policy is clear and relatively concise. The employer had Ms. Tobin sign the policy at the beginning of her employment and provided her with a copy of the policy.

**REASONING AND CONCLUSIONS OF LAW:**

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 evidence in the record indicates that Ms. Tobin would have completed the assignment on the morning of Friday, August 16, 2013. She made contact with the employer on August 20, 2013 to inquire about additional work, specifically when she would be recalled to the same client. If Ms. Tobin has a Monday through Friday workweek, the contact would have come just two working days after completion of the work assignment. In light of Ms. Tobin's Monday evening through Saturday morning work schedule, her contact with the employer would still have been within two of her working days. Even if the administrative law judge had concluded that the assignment ended on Thursday, August 15, 2013, the contact with the employer still occurred within three working days. Thus, Ms. Tobin's contact with the employer was timely. Ms. Tobin inquired about additional work, but was instructed to apply for unemployment insurance benefits instead. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Tobin's August 2013 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Ms. Tobin is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Tobin.

**DECISION:**

The Agency representative's September 19 2013, reference 03, decision is reversed. The claimant's August 2013 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided she 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/pjs