

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WENDY J SMITH**  
Claimant

**APPEAL NO. 06A-UI-11738-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES MARSHALLTOWN**  
Employer

**OC: 02/26/06 R: 02**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quitting  
Section 96.5-1-j – Reassignment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a decision of a representative dated November 28, 2006, reference 05, which denied benefits based upon her separation from Temp Associates. After due notice a telephone conference hearing was scheduled for and held on December 21, 2006. The claimant participated. Participating as witnesses for the employer were Judy Rebik and Nancy Malaney.

**ISSUE:**

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether the claimant sought reassignment from the temporary employment company.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds the claimant last worked for this temporary agency from September 5, 2006 until October 10, 2006 when her temporary assignment with Benco Manufacturing Company came to an end. The claimant was informed by temporary associates on October 11, 2006 that the assignment had ended. During the contact with "Art," an employee of Temp Associates, Ms. Smith was told at that time no further assignments were available to her but that "Art" would contact her if further work became available in the near future. Based upon the conclusion of the claimant's most recent temporary assignment and the personal contact with the temporary employment service representative who indicated there was no further work available at that time, the claimant reasonably concluded that she had been separated due to a lack of work.

## 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.

The administrative law judge based upon the evidence at the hearing concludes that the claimant was separated due to lack of work under non disqualifying conditions. The evidence establishes that Ms. Smith was personally contacted by a representative of Temp Associates at the conclusion of the claimant's most recent temporary assignment. During the contact the claimant specifically made an inquiry as to further job assignments and was told by "Art" at that time that no further work was available but that "Art" would contact her in the near future if work became available to the claimant. Based upon the claimant's sworn testimony, the administrative law judge is of the opinion that the claimant's separation from his employment took place under non disqualifying conditions. The re-contact requirement of the law was satisfied in this case with the direct communication between the claimant and the temporary employment service that occurred within two days of the end of the claimant's most recent temporary assignment. The claimant was told at that time that no further work was available to her and that the temporary agency would contact the claimant if further work became available.

It is the further opinion, however, of the administrative law judge that there may be a question regarding the claimant's availability to work following her separation from Temp Associates. This matter may be a subject of inquiry by the Iowa Workforce Development to determine whether the claimant is entitled to receive unemployment insurance benefits.

**DECISION:**

The representative's decision dated November 28, 2006, reference 05, is reversed. The claimant is eligible to receive unemployment insurance benefits, provided she meets all other eligibility requirements of the law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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