

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMBER L TOWNER
Claimant

APPEAL NO. 10A-UI-02710-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

OC: 0/17/10
Claimant: Appellant (2)

Section 96.5-1-j – Voluntary Quit/Failure to Seek Re-Assignment
871 IAC 24.26(19) – Job Completion

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated February 10, 2010, reference 01, that held she voluntarily quit employment without good cause attributable to the employer on December 28, 2009, and benefits are denied. A telephone hearing was held on April 7, 2010. The claimant, and her husband, Kevin, participated. Nancy Mullaney, Grinnell Manager, participated for the employer.

ISSUE:

Whether claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds that: The claimant began work on assignment at Monsanto sorting corn on September 25, 2009, and completed the full-time work assignment on October 3. The claimant accepted another full-time work assignment at Priority Plastics for production work beginning October 16. The claimant completed this assignment on October 22.

The claimant received a late-night phone call on December 11 of a family death and left for Missouri immediately with her husband. When the claimant returned late on December 26, there was an employer message from Art (employer contact person) about a job at Mariposa Farms. The claimant called Art on Monday, the next business day, and he had no work to offer the claimant.

The employer protested the claim as a voluntary quit due to a no-call/no-show to 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.

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 administrative law judge concludes the claimant completed her most recent work assignment at Priority Plastics on October 22, 2009, and no further assignment was communicated to her. This shall not be construed as a voluntarily quit, and the claimant is entitled to benefits, provided she is otherwise eligible.

While there is conflicting testimony about any employer work offer in December 2009, the employer admitted the claimant completed her work assignment at Priority Plastics on October 22, and there was no further work offered at that time or any issue about the claimant making herself available for work.

The employer did not offer Art as a witness in this matter, and the claimant/claimant's husband refuted the employer testimony that no work assignment was communicated to the claimant while they were in Missouri from December 11 to December 26. The claimant was not offered work in December, and no disqualification is imposed.

DECISION:

The department decision dated February 10, 2010 reference 01 is reversed. The claimant completed a temporary assignment on October 22, 2009, and no further assignment was offered. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css