

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMANDA K BURKE**  
Claimant

**APPEAL NO. 11A-UI-10964-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 06/26/11**  
**Claimant: Respondent (1-R)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 9, 2011, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on September 12, 2011. Claimant Amanda Burke did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Sarah Fiedler, Claims Administrator, represented the employer. Exhibits One and Two were received into evidence.

**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. Amanda Burke performed work for the employer in one full-time, temporary work assignment from March 2009 through June 30, 2010. Ms. Burke completed the assignment. Ms. Burke immediately applied for unemployment insurance benefits. On July 1, 2010, Ms. Burke contacted Team Staffing Solutions, advised the branch manager that she had applied for unemployment insurance benefits, and asked what else she needed to do next. The employer advised Ms. Burke that she would need to come into the office and update her application and job history so that the employer could proceed with locating additional work for her. Ms. Burke told the employer that she would be in later that day or early the next week. However, Ms. Burke did not make further contact with the employer.

At the start of Ms. Burke's employment, the employer had her execute a Notification Requirement Availability for Work Assignments document. The document reads as follows:

I understand and acknowledge that upon completion of an assignment, I must contact the Company and request placement in a new assignment within three (3) working days of completing my last assignment or I will be deemed a voluntary quit and further assignments may not be offered.

I understand that my failure to contact the Company may affect my eligibility for unemployment insurance benefits.

My signature below acknowledges that I have been provided a copy of this policy.

No other policies appear on the document that contained the above policy. Ms. Burke signed the document on March 18, 2009 and received a copy of the document.

#### **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 employer's written end-of-assignment notification policy complies with the requirements of Iowa Code section 96.5(1)(j). The evidence indicates that the claimant contacted the employer the day after her assignment ended. The weight of the evidence establishes that the claimant indicated her availability for a new assignment by advising the employer that she had applied for unemployment insurance benefits and by asking what she needed to do next. The employer's decision to impose an additional hurdle did not preclude Ms. Burke from meeting the requirements of Iowa Code section 96.5(1)(j). The employer's decision to require an updated application does not entirely make sense, given that Ms. Burke had just completed a 15-month assignment for the employer and the employer knew full well her work history during that period. There was nothing to prevent the employer from seeking a new assignment for Ms. Burke with the information the employer already had and based on the contact Ms. Burke made with the employer on July 1, 2010.

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

**DECISION:**

The Agency representative's August 9, 2011, reference 01, decision is affirmed. 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 she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

This matter is remanded to the Claims Division for determination of whether the claimant is available for work.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/css