

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CYNTHIA L ASZMAN
1820 W 2ND ST
OTTUMWA IA 52501

TEMP ASSOCIATES
1000 N ROOSEVELT AVE
BURLINGTON IA 52601

Appeal Number: 04A-UI-02532-CT
OC: 02/08/04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Cynthia Aszman filed an appeal from a representative's decision dated March 5, 2004, reference 01, which denied benefits based on her separation from Temp Associates. After due notice was issued, a hearing was held by telephone on March 30, 2004. Ms. Aszman participated personally. The employer participated by Deborah Eagleman, Branch Manager, and Debra Fox, Account Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Aszman began working for Temp Associates on October 13, 2003. She was discharged because she failed to report to an assignment for three consecutive days without notice. On or about January 29, 2004, Ms. Aszman was offered an assignment with Kalona Plastics to start on February 1. She asked if the start date could be delayed because her daughter would be visiting from a group home that weekend. When advised that the start date could not be delayed, Ms. Aszman agreed to report on February 1.

Ms. Aszman was to report for work at 6:00 a.m. on February 1 but did not awaken until approximately 9:00 a.m. She did not call either Temp Associates or Kalona Plastics to explain the circumstances. There was a snowstorm on February 2 and, therefore, Ms. Aszman did not report for work. She drove her daughter back to the group home on February 3 and did not report for work. She did not contact Temp Associates or Kalona Plastics on either February 2 or February 3. Ms. Aszman did not call on February 3 because she thought she would have been terminated already. She was terminated when she picked up her paycheck on February 5.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Aszman was separated from employment for any disqualifying reason. She was discharged not just from her temporary assignment with Kalona Plastics but from employment with Temp Associates in general. She will not be placed on further assignments. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

Ms. Aszman was absent from work for three consecutive days without calling either her employer or the assignment where she was to work. It is true that Temp Associates knew she would be having visitation with her daughter the weekend of February 1. However, Ms. Aszman agreed to accept the assignment and start on February 1 in spite of the fact that she would have her daughter at home. She could have declined the assignment once she learned that the start date could not be delayed. At a very minimum, she could have called to report that she would not be at work. Ms. Aszman's consecutive unreported absences could have jeopardized Temp Associates' relationship with Kalona Plastics as the client company had the right to expect that they would be staffed by individuals who would report to work as scheduled. Her actions could have hampered Kalona Plastics' production plans and caused them to go elsewhere for their temporary staffing needs, thus resulting in a loss of revenue for Temp Associates. Ms. Aszman's disregard for her employer's standards and interests constituted disqualifying misconduct. Accordingly, benefits are denied.

DECISION:

The representative's decision dated March 5, 2004, reference 01, is hereby affirmed. Ms. Aszman was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/d