

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ISIDRO F MARQUEZ PEREZ**  
Claimant

**APPEAL NO: 11A-UI-02250-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ANNA ENTERPRISES  
STAFFING SOLUTIONS**  
Employer

**OC: 01/09/11  
Claimant: Appellant (2/R)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(15) – Temporary Employment

**STATEMENT OF THE CASE:**

Isidro F. Marquez Peres (claimant) appealed a representative's February 16, 2011 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a temporary separation from employment from Anna Enterprises/Staffing Solutions (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 21, 2011. The claimant participated in the hearing. Katherine Druivenga appeared on the employer's behalf. Steven Rhodes served as interpreter. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on May 13, 2010. As of the date of the hearing he had been placed into three assignments, one from May 13 through November 10, 2010, the second from November 16 through December 17, 2010, and a third on March 1 and March 2, 2011. The assignment which is the subject of this appeal is the second assignment.

On claimant's second assignment he worked a full-time schedule as a laborer at the employer's business client. The assignment ended on December 17 because the business client determined that the claimant's work on the assignment to be completed. The business client informed the employer of the completion of the assignment on December 17, 2010. The claimant did not directly contact the employer at that time, in part because he needs assistance communicating in English. However, on December 16 a friend of his contacted the employer to indicate the assignment was ending; the friend was advised that the employer would have no other work available until after the holidays. The claimant then did check in for work on January 3, 2011.

Some information was presented by the employer regarding a potential refusal of work on March 14, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails without good cause to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Where a temporary employment assignment has ended by the completion of the assignment of and the employer is aware of the ending of that assignment, the employer is already on "notice" that the assignment is ended and the claimant is available for a new assignment. 871 IAC 24.26(15). Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. While the claimant may not have contacted the employer directly, a friend contacted the employer on his behalf and was advised that there would be no work until after the holidays. Further, having been advised that the employer would have no work until after the holidays, the claimant had good cause for not directly seeking reassignment until January 3, 2011. Regardless of whether the claimant continued to seek a new assignment, the December 17, 2010 separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

An issue as to whether the claimant may have refused a suitable offer of work on March 14, 2011 arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

**DECISION:**

The representative's February 16, 2011 decision (reference 01) is reversed. The claimant's December 17, 2010 temporary separation was not a voluntary quit but was the completion of a

temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

---

Lynette A. F. Donner  
Administrative Law Judge

---

Decision Dated and Mailed

ld/pjs