

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANA R REISER**  
Claimant

**APPEAL NO: 11A-UI-02544-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**  
Employer

**OC: 11/28/10**

**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

Diana R. Reiser (claimant) appealed a representative's February 21, 2011 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from DES Staffing Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 28, 2011. The claimant participated in the hearing. Stacy Navarro appeared on the employer's behalf. One other witness, Ashley Leydens, was available on behalf of the employer but did not testify. 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's first and to date only assignment began on May 24, 2010. She worked full time at the employer's business client through November 22, 2010. The assignment ended as of that date because on November 23 the business client decided to end the assignment because the claimant was missing too much work. She had missed between eight and ten days of work due to a personal medical issue. Her final absence occurred on November 23. She did call the business client to report the absence. She had not been informed or warned that her position was in jeopardy due to her attendance. The employer is not asserting that the ending of the assignment should be disqualifying.

The business client informed the employer of the decision to end the assignment on November 23, and the employer then called and informed the claimant. In the conversation with the employer's representative on November 23, the claimant did inquire about reassignment, and the employer's representative said she would call the claimant back, but did not. On Wednesday, November 24 the claimant called the employer at about 9:55 a.m. and again

inquired about reassignment. She was told there was no work available at that time, but that the claimant should call back Monday after the Thanksgiving holiday, November 25. The employer's representative failed to document the claimant's inquiry about reassignment on November 23 and November 24. The claimant again contacted the employer to seek reassignment on Monday, November 29, which was documented by the employer.

**REASONING AND CONCLUSIONS OF LAW:**

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 she fails 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.

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. The claimant did seek reassignment both on November 23 and November 24, despite the employer's failure to document such request. Further, the claimant's contact seeking reassignment on November 29 was also within three business days of the ending of the assignment on November 23, given the intervening holiday. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's February 21, 2011 decision (reference 01) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment after which she sought reassignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs