

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FAITH C VAZQUEZ
Claimant

APPEAL NO: 09A-UI-11313-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

OC: 06/28/09

Claimant: Appellant (1)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Faith C. Vazquez (claimant) appealed a representative's August 5, 2009 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Temp Associates (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 24, 2009. The claimant participated in the hearing. Jan Windsor appeared on the employer's behalf. During the hearing, Employer's Exhibit One was entered into evidence. 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 as of the hearing date only assignment through the employer began on December 11, 2006. She worked full time as a janitor at the employer's Fort Madison, Iowa business client through June 30, 2009. The assignment ended that date because a dispute arose between the claimant and the business client on a work performance issue and the business client told the claimant to leave, indicating they would call her if they needed her to return. Neither the business client nor the claimant informed the employer of the at least temporary ending of the assignment on June 30. The employer was not aware that the claimant was no longer working on the assignment until July 9 when the employer received a notice the claimant had filed for unemployment insurance benefits. The claimant did not call to report she was available for work until July 13.

On May 9, 2009 the claimant had signed a new availability notification statement from the employer which indicated she was aware she needed to contact the employer within three working days "after my assignment ends or is temporarily stopped. . . . [F]ailure to do so . . . will be considered a voluntary quit . . ." The claimant's only explanation for failing to do this was that

she kept believing that the business client was going to go ahead and call her to come back themselves.

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 her 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 not working, but the employer is unaware that the claimant is not working and could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Here, the employer had no separate knowledge the claimant was no longer working on the assignment; the claimant's failure to contact the employer within the required three days deprived the employer of the opportunity to either seek to mend the rift between the claimant and the business client to return her to the assignment or to promptly begin an attempt to find a new assignment for the claimant. The employer has satisfied the statutory criteria of Iowa Code § 96.5-1-j; the claimant has not. The claimant is deemed to have voluntarily quit.

DECISION:

The representative's August 5, 2009 decision (reference 01) is affirmed. The claimant voluntary quit by failing to contact the employer within three days of the at least temporary ending of an assignment. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs