

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E SIMPSON

Claimant

APPEAL NO. 09A-UI-06938-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC

Employer

**Original Claim: 03/22/09
Claimant: Respondent (1)**

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, DES Staffing, filed an appeal from a decision dated May 1, 2009, reference 01. The decision allowed benefits to the claimant, Mary Simpson. After due notice was issued, a hearing was held by telephone conference call on June 1, 2009. The claimant participated on her own behalf. The employer participated by Division Manager Peggy Kacher.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Mary Simpson was employed by DES beginning May 9, 2007. Her last assignment began at J&A Printing on April 2, 2009, for an indefinite period of time. On April 6, 2009, J&A informed Ms. Simpson the assignment would end the next day. Later that same day, the claimant called DES and said she would not be in to work the next day because she had to take her boyfriend to the University of Iowa hospitals for a test.

The employer did not hear from Ms. Simpson after that, though a call was made on April 16, 2009, to ask her to take an assignment, but there was no answer on her cell phone and the representative was not able to leave a voice message. The claimant did not recall she was to contact the employer within three days of the end of any assignment, and does not recall signing any document notifying her of that. In the past, the employer customarily called her to offer her assignments.

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.

The employer did not provide any evidence the claimant signed any document informing her of the requirement to call in within three days of the end of a each assignment. In the past, this has not been a problem, as she has been called by DES for assignments on a frequent basis. Without specific documentation Ms. Simpson signed the notice requirement, her failure to call in within three days of the end of her last assignment cannot be considered a disqualifying event.

DECISION:

The representative's decision of May 1, 2009, reference 01, is affirmed. Mary Simpson is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw