

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA K WELLNER
Claimant

APPEAL NO. 07A-UI-03804-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADECCO USA INC
Employer

**OC: 03-04-07 R: 03
Claimant: Respondent (1)**

Section 96.5-1-j – Voluntary Leaving – Temporary Assignment
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated April 3, 2007, reference 01, which held the claimant eligible for unemployment insurance benefits based upon her separation from Adecco USA, Inc. After due notice, a telephone conference hearing was scheduled for and held on May 2, 2007. The claimant participated. The employer participated by Jack Shappee, Branch Manager.

ISSUES:

The issues in this matter are whether the claimant was discharged under disqualifying conditions and whether the claimant quit employment for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this temporary employment service from December 2006 until March 2, 2007 when her temporary assignment at Square D as a production worker came to an end. Upon completing the assignment, Ms. Wellner contacted Adecco USA, Inc. for additional assignments that day. The claimant was informed that no additional assignments were available that day or the next working day, Monday, March 5, 2007. Based upon statements that had been made to her by the company, Ms. Wellner reasonably concluded that Adecco USA, Inc. would contact her in the future if additional assignments became available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant left employment with good cause attributable to the employer.

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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment

status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so the temporary employee may be reassigned and continue working. In this case the claimant was informed that the assignment at Square D was ending and contacted the employer on the last working day for additional assignments. The evidence establishes that Ms. Wellner was told that no additional work was available to her that day or the next working day. In this case, the claimant gave the employer notice of her availability. As no work was available to the claimant at the end of her most recent assignment and the claimant satisfied the contact provision of the law, it must be held that the claimant's separation took place under nondisqualifying conditions due to lack of work.

DECISION:

The April 3, 2007, reference 01, decision is affirmed. The claimant's separation was attributable to the employer. Benefits are allowed, providing the claimant meets all other eligibility requirements of the law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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