

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LATOSHA D SMITH
Claimant

APPEAL NO. 09A-UI-01593-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

OC: 10/05/08 R: 02
Claimant: Respondent (2)

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

Latosha Smith filed an appeal from a representative's decision dated January 27, 2009, reference 04, which denied benefits based on her separation from DES Staffing Services, Inc. (DES) . After due notice was issued, a hearing was held by telephone on February 20, 2009. Ms. Smith participated personally. The employer participated by Amy MacGregor, Human Resources, and Shane Sorenson, Divisional Manager.

ISSUE:

At issue in this matter is whether Ms. Smith was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Smith worked for DES from November 12 until November 26, 2008. She worked full time on an assignment with Osceola Foods. She was called by DES on November 26 and told that the assignment had ended. Ms. Smith was not offered additional work at that time but was told to call if she wanted to work. The employer has not heard further from her since that time.

REASONING AND CONCLUSIONS OF LAW:

The parties do not dispute that Ms. Smith completed her assignment as she worked until no further work was available. The issue then becomes whether she complied with the requirements of Iowa Code section 96.5(1)j. This section requires an employee of a temporary placement firm to notify the firm of the completion of an assignment within three working days of the end of the assignment. The statute provides that “[f]ailure of the individual to notify the temporary placement firm . . . within three working days of the completion of each assignment under a contract of hire shall be deemed a voluntary quit. . .” It is clearly the failure to give notice that results in the finding of a voluntary quit.

The administrative law judge concludes that Ms. Smith was not required to give the employer notice of a fact it was already aware of. The purpose of the notice is to allow the temporary firm an opportunity to provide additional work and avoid the individual being unemployed. It was DES that told Ms. Smith the assignment had concluded and, therefore, DES was aware she was again available for assignment. If there was work available for Ms. Smith during the three days following the end of her work with Osceola Foods, it could have been offered to her on November 26 when the DES staffing specialist told her the prior assignment was over.

After considering all of the evidence, the administrative law judge concludes that Ms. Smith was separated from employment for no disqualifying reason.

DECISION:

The representative's decision dated January 27, 2009, reference 04, is hereby reversed. Ms. Smith was separated from DES for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css