

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATERINE M MUSE
Claimant

APPEAL NO: 06A-UI-08473-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES - MARSHALLTOWN
Employer

**OC: 07/30/06 R: 03
Claimant: Respondent (2)**

Section 96.5-1-j – Separation from Temporary Employer

STATEMENT OF THE CASE:

Temp Associates - Marshalltown (employer) appealed a representative's August 21, 2006 decision (reference 02) that concluded Katherine Muse (claimant) was eligible to receive unemployment insurance benefits based on her separation from work on November 18, 2005. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 20, 2006. The claimant participated personally. The employer participated by Nancy Mullaney, Manager.

ISSUE:

The issue is whether the claimant properly requested reassignment from her temporary employer and is eligible to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant signed an Availability Statement on May 3, 2003, indicating that she was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The employer gave the claimant a copy of the Availability Statement. The claimant was assigned to work at D.K.M. from May 4, 2004, through December 2, 2005. The claimant completed her assignment but did not seek reassignment from the employer. Later the employer contacted the claimant and asked her if she would accept another position. The claimant was assigned to work at Show Me Containers from December 23, 2005, to June 19, 2006. The claimant completed her assignment but did not seek reassignment from the employer.

The employer incorrectly reported the December 2, 2005, separation to the Agency as November 18, 2005.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge finds the claimant did not properly seek reassignment from her temporary employer and is not eligible to receive unemployment insurance benefits.

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.

As an employee of a temporary service, the claimant was required to request reassignment after the completion of her last assignment. The claimant did not request reassignment after her separation from work on December 2, 2005, and has failed, therefore, to satisfy the requirements of Iowa Code section 96.5-1-j. Benefits are denied.

Any overpayment of unemployment insurance benefits the claimant may have received is addressed in 06A-UI-08472-S2T.

DECISION:

The representative's August 21, 2006 decision (reference 02) is reversed. The claimant was separated from the employer on December 2, 2005, for no good cause attributable to the employer. Benefits are denied. Any overpayment of unemployment insurance benefits the claimant may have received is addressed in 06A-UI-08472-S2T.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/cs