

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY D PAMETICKY
Claimant

APPEAL NO. 09A-UI-04565-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**R J PERSONNEL INC
TEMP ASSOCIATES**
Employer

**Original Claim: 02/15/09
Claimant: Respondent (4-R)**

Section 96.5-1-j – Separation from Temporary Employer
Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Temp Associates (employer) appealed a representative's March 17, 2009 decision (reference 02) that concluded Judy Pameticky (claimant) was eligible to receive unemployment insurance benefits based on her separation from work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 17, 2009. The claimant participated personally. The employer participated by Holly Jacobi, Accounts Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from July 15, 2008, through February 13, 2009. She signed a document on July 10, 2008, indicating she was supposed to seek reassignment within three working days of her last assignment. The claimant received a copy of the document.

From August 27 through November 2, 2008, the claimant was assigned to work at Schenker's as a full-time laborer. While working there, Schenker's ended its contract with the employer for temporary workers and hired Prologistics as its temporary agency. The claimant continued to work at Schenker's until approximately November 9, 2008, as an employee of Prologistics.

The claimant was reassigned by the employer to a position at Monsanto on November 18, 2008. She worked as a full-time laborer until her assignment ended on February 13, 2009. The claimant sought reassignment on February 13, 2009, but no work was available.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits after her separation from work on November 2, 2009.

Iowa Code section 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant was paid by the employer until another employer paid her wages. In essence, the claimant left her position with the employer to work for another employer. When an employee quits work to take other employment, she is not disqualified from receiving unemployment insurance benefits. The claimant quit work to take other employment. She voluntarily quit without good cause attributable to the employer. Benefits are allowed because the claimant left to take other employment. The employer will not be charged.

For the reasons that follow, the administrative law judge concludes the claimant was not separated from the employer for any disqualifying reason on February 13, 2009.

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 claimant did request reassignment and has, therefore, satisfied the requirements of Iowa Code section 96.5-1-j. Benefits are allowed.

DECISION:

The representative's March 17, 2009 decision (reference 02) is modified in favor of the appellant. The claimant voluntarily left work without good cause attributable to the employer on November 2, 2008. The claimant is not disqualified from receiving unemployment insurance benefits because she quit to take other employment. The employer will not be charged for that separation. On February 13, 2009, the claimant was separated from employment with the employer and is eligible to receive unemployment insurance benefits because she satisfied the requirements of Iowa Code section 96.5-1-j.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw