

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMANDA DIPPLE**

Claimant

**APPEAL NO. 12A-UI-03211-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**

Employer

**OC: 02/12/12**

**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Team Staffing Solutions Inc. filed a timely appeal from a representative's decision dated March 23, 2012, reference 01, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on April 12, 2012. Claimant participated. The employer participated by Ms. Sara Fiedler, Claims Administrator.

**ISSUE:**

The issue in this matter is whether the claimant was discharged under disqualifying conditions.

**FINDINGS OF FACT:**

The administrative law judge, having considered the evidence in the record, finds: Amanda Dipple began employment with Team Staffing Solutions on June 30, 2011. The claimant was assigned to work as an inventory worker at the H J Heinz facility and was paid by the hour. The claimant's last day of work was February 8, 2012. The claimant was unable to report for scheduled work at the client facility on February 9 and 10 due to illness. The claimant properly reported her impending absence to the J H Heinz company. The claimant believed that she was properly reporting to the Heinz company based upon information that had been given to her previously by a Team Staffing Solutions employee.

Because the client employer thought the claimant's attendance was not satisfactory, they requested that the claimant be removed from the assignment. Ms. Dipple was informed that she had been removed from the assignment on February 13, 2012. The claimant reported to the Team Staffing Solutions facility to turn in her badge and keys and at that time asked about other available employment. Ms. Dipple was told that Team Staffing Solutions would contact her if any job openings became available.

It is Team Staffing Solutions position that the claimant should have been directly notifying Team Staffing Solutions of any impending absences and that company records do not show that Ms. Dipple checked in for a new work assignment after being separated from her most recent assignment at the H J Heinz Company.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant's job separation took place under nondisqualifying conditions.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

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 evidence in the record establishes that the claimant was reasonable in her belief that she was to report any impending absences directly to the H J Heinz Company. The claimant testified that she reported her impending absences on February 9 and 10 to the H J Heinz Company in advance of the beginning of her work shift and was absent because she was ill. The claimant further testified that she obtained a doctor's note to verify the necessity to be absent on those days. The claimant also testified that telephone records confirm that she called in as required. The administrative law judge concludes the claimant was reasonable in her belief that contacting the Heinz Company directly was appropriate based upon previous information that had been given to her by a Team Staffing Solutions employee. The administrative law judge thus concludes that the claimant's absences were due to illness and were properly reported.

The purpose of the statute requiring contact with the temporary employment services within the three days of the end any temporary assignment is to provide notice to the temporary agency employer that the claimant was available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. In this case the evidence establishes that the claimant went in person and asked for additional work but was told that none was available. The administrative law judge therefore concludes that the claimant did not quit her employment by failing to provide notification within three working days. The claimant's separation from employment took place under nondisqualifying conditions.

**DECISION:**

The agency representative's decision dated March 23, 2012, reference 01, is affirmed. The claimant's separation from employment was attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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