

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCO A GARCIA
Claimant

APPEAL NO: 09A-UI-07399-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAMBRIDGE TEMPOSITIONS INC
Employer

OC: 04/05/09

Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Marco A. Garcia (claimant)) appealed a representative's May 13, 2009 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Cambridge Tempositions, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 9, 2009. The claimant participated in the hearing. Will Ortega appeared on the employer's behalf. This appeal was consolidated for hearing with another appeal regarding another claimant, Maria Garcia, 09A-UI-07400-DT. Ike Rocha served as interpreter. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant's first and to date only assignment began on September 4, 2008. He worked full time as a corn sorter at the employer's Lone Tree, Iowa business client through October 14, 2008. The assignment ended that date because the business client deemed the assignment to be completed. The business client informed the employer of the completion of the assignment, and on October 14 the employer's on-site supervisor informed the claimant that the work assignment was completed. The claimant inquired at that time whether there was other work, and was told there was not. The claimant came into the employer's office to pick up a paycheck on October 17 and again asked if there was more work, and was told there was not. The claimant did not separately sign a sheet in the employer's office indicating he wanted a new assignment; he was not instructed that he needed to do so. Likewise he came into the employer's office on October 24 and picked up a paycheck. No suggestion of additional work was made to him at that time, or instruction given to him as to signing in on the signup sheet.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if he fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Where a temporary employment assignment has ended by the completion of the assignment of and the employer is aware of the ending of that assignment, the employer is already on “notice” that the assignment is ended and the claimant is available for a new assignment; where the claimant knows that the employer is aware of the ending of the assignment, he has good cause for not separately “notifying” the employer. 871 IAC 24.26(19).

Here, the employer was aware that the business client had ended the assignment; it considered the claimant’s assignment to have been completed. The claimant is not required by the statute to remain in regular periodic contact with the employer or to specially sign in on a list seeking work in order to remain “able and available” for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative’s May 13, 2009 decision (reference 01) is reversed. The claimant’s separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs