

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICK D SETTLES

Claimant

APPEAL NO. 11A-UI-06619-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC

Employer

OC: 12/19/10

Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Rick D. Settles (claimant) appealed a representative's May 13, 2011 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Manpower International, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 27, 2011. The claimant participated in the hearing. David Dickey appeared on the employer's behalf. 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 began his first and only assignment through the employer on September 9, 2009. He worked full-time as a machine operator at the employer's Williamsburg, Iowa, business client through April 20, 2011. The assignment ended that date because the business client was dissatisfied with the claimant's recent job performance. The business client informed the employer of the ending of the assignment on April 20, 2011, and the employer's representative contacted the claimant to explain the assignment was ended. The claimant at that time asked the representative if there was any other work available. The employer's representative indicated that at that time the only work available was in Iowa City, about 35 miles away, which the claimant indicated was too far. The claimant understood that if the employer found work for him closer to home, it would contact him.

The claimant did not check back with the employer until about May 12; at that time the employer still did not have any work available closer to the claimant's home. On June 9 the employer contacted the claimant for work right in his hometown; the claimant declined, although he did

not give the actual reason for declining, which was that he had accepted another offer of work with another temporary employment firm that was starting the next day.

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 and could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. 871 IAC 24.26(15).

Here, the employer was aware that the business client had ended the assignment and the claimant had immediately voiced an interest in reassignment. The claimant is not required by the statute to specify the parameters as to where he would be interested in work in order to satisfy the requirement that he inform the employer that he is interested in reassignment; further, the statute does not require that the employee remain in regular periodic contact with the employer 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 a completion of a temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue.¹ As there was not a disqualifying separation from employment, benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative’s May 13, 2011 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/kjw

¹ While the issue of a work refusal is not before the administrative law judge to decide, I do note that one allowable reason for declining an otherwise suitable offer of work is where other employment has already been found. 871 IAC 24.24(7).