

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALINA C FAJARDO

Claimant

APPEAL NO: 12A-UI-11698-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROF SVCS

Employer

OC: 08/19/12

Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Alina C. Fajardo (claimant) appealed a representative's September 21, 2012 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Aventure Staffing & Professional Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 24, 2012. The claimant participated in the hearing and presented testimony from one other witness, Charryse Chavez. Kayla Neuhaufen appeared on the employer's behalf and presented testimony from one other witness, Gina Rawlings. During the hearing, Employer's Exhibits One and Two were entered into evidence. 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 through the employer began on March 1, 2012. She worked full time as a general laborer on the third shift at the employer's business client through the shift ending on the morning of August 9, 2012. The claimant was then absent from the assignment due to illness through August 13. The business client determined to end the assignment as of that date due to the claimant absences. The business client informed the employer of the ending of the assignment. On August 14, 2012 the employer informed the claimant that the assignment had been ended due to her attendance.

The employer policies require that an employee seek reassignment within three days of the end of the assignment to avoid being considered to be a voluntary quit. On August 16 the claimant made two attempts to contact the employer to inquire if there was any work available. On the first attempt she was told there was no one available to answer her question, and on the second attempt she was told that there was no other work currently available. She also went into the

employer's office on August 17 to pick up a paycheck and to indicate she was available for work; there was nothing further said at that point as to further work being available for her.

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 she 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.

Here the claimant did seek reassignment within three days of the ending of the assignment. 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 September 21, 2012 decision (reference 03) 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 she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs