

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELINDA M BUTLER**  
Claimant

**APPEAL NO: 08A-UI-09654-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC  
SEDONA STAFFING**  
Employer

**OC: 01/20/08 R: 03  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge  
Section 96.5-1 – Voluntary Leaving  
Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(19) – Temporary Employment

**STATEMENT OF THE CASE:**

L A Leasing, Inc. / Sedona Staffing (employer) appealed a representative's October 14, 2008 decision (reference 02) that concluded Melinda M. Butler (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 5, 2008. The claimant participated in the hearing. Colleen McGuinty appeared on the employer's behalf and presented testimony from two other witnesses, Jessica Swain and Keith Evans. 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 either through a voluntary quit without good cause attributable to the employer or through a discharge for misconduct?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant began taking assignments with the employer on November 14, 2005. She reactivated her status in September 2006 and continued as an active employee into May 2008. Her final assignment began on February 12, 2008, working full time as a laborer for the employer's Cedar Rapids, Iowa business client. Her last day worked in the assignment was May 5, 2008. The claimant called off work due to illness on May 6 and May 7. The employer asserts that the claimant voluntarily quit by job abandonment by failing to return to work after that date.

On or about May 8 the claimant learned that the business client did not have sufficient work for all the temporary employees, and that there was no further work for her at that point since she had been absent earlier that week. On May 9 she went into the employer's offices and picked up her paycheck and asked if there was any other work, but was told there was not. On May 12

Mr. Evans called and left a message for the claimant indicating that she should return to work with the business client; the claimant did not receive the message, and did not know to return to work with the business client. The claimant picked up a final paycheck on May 16, and nothing was said to her about why she had not returned to work with the business client or there being any other work available for her there.

### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not eligible for unemployment insurance benefits if she quit the employment without good cause attributable to the employer or was discharged for work-connected misconduct. Iowa Code §§ 96.5-1; 96.5-2-a.

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The employer asserted that the claimant was not laid off for lack of work from the assignment but that she abandoned the employment by ceasing to report for available work. The employer knew on May 9 that the business client did not presently have work for the claimant. While it made an attempt to recall her to work on May 12, it did not make actual contact so as to ensure the claimant in fact was aware she could return to work. 871 IAC 24.24(1)a. The employer had an opportunity to clarify the situation as to why the claimant had not returned on May 12 when the claimant picked up her final paycheck on May 16, but did not do so. The administrative law judge concludes that the employer has failed to satisfy its burden that the claimant voluntarily quit. Iowa Code § 96.6-2.

An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her 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 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, she has good cause for not separately "notifying" the employer. 871 IAC 24.26(19).

Here, the employer knew or should have known on May 9 that the claimant was not actively working in the assignment and was asking about other work that might be available. 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 October 14, 2008 decision (reference 02) is affirmed. The claimant did not voluntarily quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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