

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EVA L ABBOTT**  
Claimant

**APPEAL NO. 10A-EUCU-00306-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**Original Claim: 11/02/08  
Claimant: Respondent (2-R)**

Section 96.5(1)(j) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the April 7, 2010, reference 02, decision that allowed benefits in connection with a March 9, 2010 separation. After due notice was issued, a hearing was held on July 2, 2010. Claimant Eva Abbott participated. Sarah Fiedler, Claims Administrator, represented the employer. Exhibit One was received into evidence.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Eva Abbott established her employment relationship with Team Staffing Solutions, Inc., in November 2009 and performed work in a full-time, temporary work assignment that ended on March 9, 2010. The client business ended the assignment because it did not consider Ms. Abbott a good fit. On March 9, 2010, Team Staffing Account Manager Tiffany Teebochorst telephoned Ms. Abbott and left a message for Ms. Abbott to call her. Ms. Abbott returned the call the same day. During the call, Ms. Teebochorst told Ms. Abbott that the assignment was ended. Neither Ms. Teebochorst nor Ms. Abbott raised the topic of an additional work assignment. Ms. Abbott was not interested in pursuing an additional work assignment through Team Staffing Solutions. Ms. Abbott was a full-time student at the time of the employment and decided to focus on her studies when the assignment ended.

On November 2, 2010, Ms. Abbott signed Team Staffing Solutions' Notification Requirement Availability for Work Assignments policy statement. The document placed Ms. Abbott on notice of her obligation to notify the employer within three working days of completing an assignment to request a new work assignment. The policy appeared as a separate stand-alone policy statement document. Ms. Abbott received a copy of the policy statement she had signed.

## REASONING AND CONCLUSIONS OF LAW:

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 weight of the evidence indicates that Ms. Abbott separated from the work assignment for no disqualifying reason when the client business decided to end the assignment because it did not think Ms. Abbott was a good fit. See Iowa Code section 96.5(2)(a) and 871 IAC 24.32(1)(a). The weight of the evidence indicates that the employer knew on March 9, 2010 that the assignment had ended, because the employer notified Ms. Abbott on that day that the assignment was completed. Ms. Abbott was in contact with the employer on the day the assignment ended. However, Ms. Abbott was not interested in and did not request a new assignment from the employer. Ms. Abbott elected to focus on her studies rather than pursue a new work assignment. The employer's end-of-assignment notification policy complies with the requirements of Iowa Code section 96.5(1)(j). The employer properly provided Ms. Abbott with a copy of the policy at the start of her employment. The statute requires not only that a temporary worker make contact with the temporary employment agency within three working days of the end of an assignment, but also requires that the temporary employee make contact for the purpose of indicating availability for a new assignment to avoid being disqualified for unemployment insurance benefits. Because the employer complied with the requirements of the statute, Ms. Abbott's decision not to pursue a new assignment caused the separation from the employment with Team Staffing Solutions to be without good cause attributable to the employer. Ms. Abbott is disqualified for benefits until she earns ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account will not be charged.

Iowa Code section 96.3(7) provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code section 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received would constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

**DECISION:**

The Agency representative's April 7, 2010, reference 02, decision is reversed. The claimant's separation from the temporary employment agency was without for good cause attributable to the temporary employment agency. The claimant is disqualified for benefits until she earns ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account will not be charged.

This matter is remanded to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw