

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

ERIKA L AGUILERA
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MUSCATINE IA 52761

RJ PERSONNEL INC
TEMP ASSOCIATES
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MUSCATINE IA 52761-0018

Appeal Number: 06A-UI-02707-HT
OC: 02/05/06 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The claimant, Erika Aguilera, filed an appeal from a decision dated March 2, 2006, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 28, 2006. The claimant participated on her own behalf. The employer, RJ Personnel, participated by Account Manager Mike Thomas.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Erika Aguilera was employed by Temp Associates beginning January 25, 2005. Beginning May 25, 2005, she was assigned to Hon Geneva. On

October 7, 2005, the supervisor at Hon told the temporary workers the work would be slowing down due to lack of materials for the production line. No firm information was available as work would depend on when and how much material was received. All the temporary workers would be subject to recall whenever enough materials was received to have the line working.

Ms. Aguilera talked to a representative of Temp Associates to discuss the situation. The representative told her she might not want to take another assignment since Hon intended to call her back on short notice. She filed an additional claim with an effective date of October 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

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.

The employer maintains the claimant should be disqualified from receiving benefits as she did not seek another assignment within three days of October 7, 2005. However, the criteria is for employees to report within three days of the end of any assignment. The record establishes Hon representatives informed the temporary employees it would be calling them back, sometimes at short notice, whenever enough materials arrived to start the production line again. The administrative law judge cannot consider this to be the end of an assignment, only a temporary layoff with a firm promise of recall. Therefore, the provisions of the above Code chapter do not apply. The claimant was laid off for lack of work and this is not a disqualifying separation.

DECISION:

The representative's decision of March 2, 2006, reference 02, is reversed. Erika Aguilera is qualified for benefits, provided she is otherwise eligible.

bgh/kkf