

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUSAN K WHITLOCK**

Claimant

**APPEAL NO. 07A-UI-06308-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER INTERNATIONAL INC**

Employer

**OC: 04/01/07 R: 12  
Claimant: Respondent (1/R)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(19) – Temporary Employment

**STATEMENT OF THE CASE:**

Manpower International, Inc. / Manpower Temporary Services (employer) appealed a representative's June 12, 2007 decision (reference 02) that concluded Susan K. Whitlock (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 11, 2007. The claimant participated in the hearing. Todd Ashenfelter 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's first and only assignment began on April 7, 2006. She worked full time as a machinist at the employer's business client through March 27, 2007. The assignment ended that date because the business client determined to end it due to lack of work. The employer was notified of the completion of the assignment. The claimant spoke with an employer representative in March 30 and again on April 2 regarding the ending of that assignment and her interest in obtaining another assignment. At that time, no other work was available.

In approximately May, the employer contacted the claimant regarding her availability for work and learned that the claimant had begun other employment.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment.

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.

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 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 employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed, and the claimant was communicating with the employer about seeking a new assignment. Regardless of whether the claimant subsequently became unavailable for a new assignment, the March 27,

2007 separation is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment and her subsequent availability for work would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

An issue as to whether the claimant refused a suitable offer of work without good cause or whether she was available for work, so as to be eligible for partial unemployment insurance benefits in a new but lower paying job, arose as a result of the hearing. These issues were not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on those issues. 871 IAC 26.14(5).

**DECISION:**

The representative's June 12, 2007 decision (reference 02) is affirmed. 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. The matter is remanded to the Claims Section for investigation and determination of the refusal and availability issues.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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