

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARTHA CONTRERAS**  
Claimant

**APPEAL NO. 12A-UI-07046-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**  
Employer

**OC: 04/29/12**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated June 4, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 10, 2012. The claimant participated. The employer participated by Stacy Navarro, human resources coordinator. The record consists of the testimony of Martha Contreras; the testimony of Stacy Navarro; and Employer's Exhibits 1.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary staffing agency. The claimant accepted an assignment at Osceola Foods on October 20, 2011. When she was hired, the claimant signed a form that stated that if she failed to contact the employer within three days of the end of an assignment, she would be considered a voluntary quit. The claimant's assignment ended on December 22, 2011. The claimant did not request another assignment until December 27, 2011.

**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.

Iowa law states that if an employee of a temporary employer fails to contact her employer within three *working* days of the end of an assignment, the employee is considered a voluntary quit. In this case, the employer's form states three days, not three working days. The claimant's assignment ended on December 22, 2011. December 23, 2011, was a Friday and a working day, but December 24, 2011, was a Saturday and December 25, 2011, was a legal holiday.

The following Monday, December 26, 2011, was observed as a holiday, and December 27, 2011, would then be day three or day two, if December 26, 2011, is considered a holiday. Regardless, the claimant requested another assignment within three working days. She is not a voluntary quit based on the separation from temporary employment.

The representative set this decision up as a voluntary quit due to the move to a new locality as of December 29, 2011. The claimant does not know when she moved, but the employer had some information that claimant might have moved in late February. Neither party can pinpoint when the claimant moved back to California and the administrative law judge cannot find that information either. The claim was not established until April 29, 2012, at which time the claimant clearly was living back in California. Benefits were initially paid. The administrative law judge cannot determine if there is a combined wage claim or not. This matter is remanded to the Claims Section to determine if the claimant is eligible for benefits based on the findings of fact in this decision that the claimant was not a voluntary quit based on a separation from temporary employment and that she did not move back to California on December 29, 2011.

**DECISION:**

The representative's decision dated June 4, 2012, reference 01, is reversed. This matter is remanded to the Claims Section for further investigation on the claimant's eligibility for benefits based on the findings of fact in this decision.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw