

BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

AMANY WASIF

Claimant

and

TEMP ASSOCIATES - IOWA INC

Employer

HEARING NUMBER: 17BUI-07792

EMPLOYMENT APPEAL BOARD
DECISION

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1-J

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Amany Wasif, worked for Temp Associates – Iowa, Inc. from November 16, 2016 through June 30, 2017 as full-time, temporary administrative support personnel for Orascom at the Iowa fertilizer plant. (13:10-13:28; 13:37-14:14:21; 30:56-31:04) The Claimant is a non-English-speaking person who attended orientation accompanied by her husband who spoke a little English. (37:05-37:18) The Employer provided the Claimant with the notification policy on November 15, 2016 at orientation. (36:25-37:13) The notification was in English and the Claimant did not request an interpreter for the document. The notification policy requires that an employee must contact the Employer within three days of an assignment's end and to request continued work. If that is not done, that employee will be considered to have quit their employment with Temp Associates. ((15:47-16:25; 17:07-17:25)

The Employer contacted the Claimant to obtain her timecard for week ending June 30, 2017. The Claimant's spouse informed the Employer "no more time cards" and provided no other information. Orascom contacted the Employer informing it of the assignment's end. (35:46-35:52) Temp Associates did not hear from the Claimant for the next three business days (July 5th-7th) with a request for further assignment. (15:15-15:22; 16:09-16:22; 34:35-35:52; 35:57-36:12) The Employer considered the Claimant quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) "j" provides:

An individual shall be disqualified for benefits: *Voluntary quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

* * *

- 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 consequence 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.

The record establishes that the Employer provided the Claimant with the notification policy that the Claimant received during orientation, which the Claimant does not dispute. It wasn't until the Employer contacted the Claimant, speaking to the husband, that the Employer became aware that there were no forthcoming timecards. Although it is unclear in the record when the Employer spoke with Orascom, we can reasonably assume that their phone call to the Claimant prompted an inquiry. The Claimant, admittedly, did not personally contact Temp Associates to inform the Employer of the assignment's end. Rather, it was Orascom, the temporary assignment who notified the Employer. When the Employer had no contact from the Claimant within the next three business days after the assignment's end, nor did she request additional work, the Employer reasonably assumed the Claimant quit, as she failed to comply with the notification policy.

DECISION:

The administrative law judge's decision dated August 22, 2017 is **REVERSED**. The Claimant voluntarily quit her employment without good cause attributable to the Employer. Accordingly, the Claimant is denied until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Kim D. Schmett

Ashley R. Koopmans

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would affirm the administrative law judge's decision in its entirety, with the exception of the last three paragraphs on p. 3 of the decision.

James M. Strohman

AMG/fnv