

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COLLETTE M MATHEWS**

Claimant

**APPEAL NO: 13A-UI-13305-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QPS EMPLOYMENT GROUP INC**

Employer

**OC: 08/04/13**

**Claimant: Appellant (2)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(15) – Temporary Employment  
Section 96.7-2-a(2) – Charges Against Employer's Account

**STATEMENT OF THE CASE:**

Collette M. Mathews (claimant) appealed a representative's December 5, 2013 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from QPS Employment Group, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 20, 2013. The claimant participated in the hearing. Rhonda Hefter de Santisteban appeared on the employer's behalf and presented testimony from one other witness, Leah Paulson. 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 to date only assignment began on September 12, 2013. She worked full time as a clerical at the employer's Marshalltown, Iowa business client through November 15, 2013. The assignment ended that date because the business client deemed the assignment to be completed, albeit less than successfully, due to concerns about the claimant's attendance. She had been absent due to illness on November 12, November 13, and November 14. When she came into the business client's facility on November 15, she was informed that she was being released from the assignment. The business client informed the employer of the completion of the assignment on either November 15 or November 18. On November 18 a representative for the employer called the claimant to advise her that the assignment was ended. On November 19 the claimant attempted three times to call the representative back to learn what she needed to do as far as getting another assignment; she was unable to reach the representative directly. She did finally reach the employer's receptionist, Paulson, and indicated that she was filing for unemployment insurance benefits; in fact, she had already reactivated her claim on November 15. The

employer asserts that claimant did not separately contact the employer within three days of the end of the assignment to seek reassignment as required by the employer's policies to avoid being considered to be a voluntary quit. The claimant denies she was provided copies of the forms she signed to that effect.

The claimant established an unemployment insurance benefit year effective August 4, 2013. She reactivated the claim by filing an additional claim effective November 10, 2013.

#### **REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. There is some question in this case as to whether the claimant was given proper notice by actually being given a copy of the notice in question.

Further, 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 could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. Where a temporary employment assignment has ended by the completion of the assignment and the employer is aware of the ending of that assignment, the employer is already on "notice" that the assignment is ended and the claimant is available for a new assignment; where the claimant knows that the employer is aware of the ending of the assignment, she has good cause for not separately "notifying" the employer. 871 IAC 24.26(15). Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. Additionally, the claimant had made a good faith attempt to contact the employer's representative to discuss further work, but had been unable to reach the representative.

Regardless of whether the claimant continued to seek a new assignment after November 19, 2013, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

The final issue is whether the employer's account is subject to charge. An employer's account is only chargeable if the employer is a base period employer. Iowa Code § 96.7. The base period is "the period beginning with the first day of the five completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding the date on which the individual filed a valid claim." Iowa Code § 96.19-3. The claimant's base period began April 1, 2012 and ended March 31, 2013. The employer did not employ the claimant during this time, and therefore the employer is not currently a base period employer and its account is not currently chargeable for benefits paid to the claimant.

#### **DECISION:**

The representative's December 5, 2013 decision (reference 03) is reversed. 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 employer's account is not subject to charge in the current benefit year.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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