

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANE J MCCANNA
Claimant

ADVANCE SERVICES INC
Employer

**APPEAL 21A-UI-17762-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/11/21
Claimant: Appellant (1)**

Iowa Code § 96.5(1)J – VQ – Temporary employment firm
Iowa Admin. Code r. 871-24.26(15) – VQ – Employee of Temporary Employment Firm

STATEMENT OF THE CASE:

Claimant filed an appeal from the August 9, 2021 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 7, 2021, at 3:00 p.m. Claimant participated. Employer participated through Melissa Lewien, Risk Management. Mary Ann Longbine was a witness for both parties. Employer's Exhibit 1 was admitted.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant made a timely request for another job assignment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant was employed full-time by Advance Services, a temporary employment firm, from February 25, 2020 until his employment ended on April 9, 2021. Claimant's sole assignment was as an Agricultural Laborer at Syngenta Seeds in Lone Tree, Iowa. On April 9, 2021, Syngenta informed claimant that his assignment was completed. Syngenta Seeds told claimant that his services were no longer needed because work was slowing down but that claimant may be needed again in September 2021 for harvest season. Claimant spoke with employer's representative at Syngenta Seeds on April 9, 2021 regarding filing for unemployment insurance benefits. Claimant did not request another job assignment from employer.

Employer has a policy that requires employees to request a new assignment within three working days of an assignment ending. (Exhibit 1) The policy is in writing and is a document separate from the employee handbook. (Exhibit 1) The policy states that failure to request a new assignment within three days will be considered quitting employment and may affect eligibility for unemployment benefits. (Exhibit 1) Claimant signed and received a copy of the policy. (Exhibit 1)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

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

An individual shall be disqualified for benefits

1. 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. (1) 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.

(2) 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.

Iowa Admin. Code r. 871-24.26(15) 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:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer or any other currently accepted means of

communications. Working days means the normal days in which the employer is open for business.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find employer's testimony that claimant did not request a new assignment to be more credible than claimant's testimony.

In this case, claimant's assignment at Syngenta Seeds ended on April 9, 2021. Claimant did not request a new assignment from employer within three working days. Claimant was advised of the requirement to request a new assignment. Claimant signed a copy of the policy. Because claimant did not request a new assignment within three working days, claimant is considered to have voluntarily quit his employment with Advance Services without good cause attributable to employer. According, claimant is not eligible for benefits.

DECISION:

The August 9, 2021 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Adrienne C. Williamson
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October 18, 2021
Decision Dated and Mailed

acw/scn