

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JEREMY L MILLER
PO BOX 337
COIN IA 51636

ADVANCE SERVICES INC
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 04A-UI-11123-HT
OC: 09/12/04 R: 01
Claimant: Respondent (1-R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Quit

STATEMENT OF THE CASE:

The employer, Advance Services, Inc. (Advance), filed an appeal from a decision dated October 8, 2004, reference 02. The decision allowed benefits to the claimant, Jeremy Miller. After due notice was issued, a hearing was held by telephone conference call on November 8, 2004. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Employee Relations Specialist Tina Underwood and was represented by UC Express in the person of Roxanne Bekaert. Exhibit One was admitted into the record.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Jeremy Miller began employment with Advance on March 16, 2004. His last assignment started on May 10, 2004, at Nishna. It was a light-duty assignment because Mr. Miller had sustained a work-related injury at a previous assignment on May 6, 2004.

The assignment at Nishna ended on July 26, 2004, and the same day the claimant reported to the Red Oak, Iowa, office. Many Henderson offered him a light-duty job at the Advance office for \$9.57 per hour for 40 hours per week. He declined.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

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.

The claimant reported to the employer for another assignment when his previous assignment came to an end. Under the provisions of the above Code section, this is not a voluntary quit and disqualification may not be imposed.

The issue of whether the claimant refused an offer of available, suitable work has not been adjudicated and should be remanded. Also, the administrative law judge remands issue of whether the claimant is able and available for work given his physical restrictions.

DECISION:

The representative's decision of October 8, 2004, reference 02, is affirmed. Jeremy Miller is qualified for benefits, provided he is otherwise eligible.

The issues of whether the claimant refused an offer of available, suitable work on July 26, 2004, and whether he is able and available for work, are remanded to the Claims Section for determination.

bgh/b