

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VILMA ROMERO**  
Claimant

**APPEAL NO: 12A-UI-06579-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 02/05/12**  
**Claimant: Respondent (1)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

**STATEMENT OF THE CASE:**

Advance Services, Inc. (employer) appealed an unemployment insurance decision dated May 31, 2012, reference 02, which held that Vilma Romero (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 27, 2012. The claimant participated in the hearing. Ninfa Redmond interpreted on behalf of the claimant. The employer participated through Michael Payne, Unemployment Specialist. Employer's Exhibit One was admitted into evidence. 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:**

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of her assignment, when and if notified of this requirement at the time of hire.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a temporary employee on March 19, 2012. At the time of hire, she signed an assignment policy which advised her of the requirement to check in for additional work after the completion of an assignment. The policy the claimant signed was printed in Spanish and it confirms the claimant understood the policy. The assignment policy requires employees to check in within three working days after the end of an assignment to request additional work.

The claimant was assigned to work as an agricultural laborer at Syngenta in Slater, Iowa. Advance Services employee Howard Hughes works for the employer at the Syngenta facility. The claimant said she only dealt with the employer at the Syngenta plant and was not aware of any other office. Syngenta opted to end the claimant's assignment and advised her that May 4, 2012 was her last day. The client informed the employer of this fact on Monday, May 7, 2012. The employer considered the claimant to have voluntarily quit her employment effective May 9,

2012 when she failed to contact the employer within three working days after the end of her assignment.

The employer did not hear from the claimant until May 16, 2012. She was only looking for a long-term assignment in Des Moines or Ankeny. Mr. Hughes documented in the employer's records that the claimant called him on May 18, 2012. The claimant testified she called Mr. Hughes on May 5, 2012 to ask about additional work but Mr. Hughes did not testify. She also claimed that she talked to Mr. Hughes within the next couple of days.

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

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code §96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

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 evidence indicates the claimant knew or should have known she was required to contact the employer after she was removed from her assignment. She contends she contacted the employer's representative on May 5, 2012 but the employer denies that claim. However, the employer is relying on hearsay evidence. The employer's hearsay testimony that the claimant did not contact the employer within three working days does not overcome her sworn testimony to the contrary. The employer could have offered first hand testimony but failed to do so. Consequently, the administrative law judge must find in favor of the claimant.

The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

**DECISION:**

The unemployment insurance decision dated May 31, 2012, reference 02, is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs