

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARMANDO P MARQUEZ
Claimant

APPEAL NO. 17A-UI-01674-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 03/20/16
Claimant: Respondent (1)

Section 96.5-1-j – Separation from Temporary Employer
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Advance Services (employer) appealed a representative's October 25, 2016, decision (reference 02) that concluded Armando Marquez (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 8, 2017. The claimant participated personally. The employer participated by Melissa Lewien, Risk Manager. The employer offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services off and on from October 21, 2010, through October 3, 2016. His last assignment was with Syngenta where he worked as a full-time operator from July 18, 2016 to October 3, 2016. He signed a document on July 5, 2015, indicating he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant was given a copy of the document. The claimant completed his last assignment on October 3, 2016, and sought reassignment from the employer on October 6, 2016.

The claimant filed for unemployment insurance benefits with an effective date of March 20, 2016. The employer participated personally at the fact-finding interview on October 24, 2016, by Melissa Lewien.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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. (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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Under the Iowa Code the employer must advise the claimant of the three day notice requirement and give the claimant a copy of that requirement. The claimant must seek reassignment within three days of his separation from employment. Both parties followed the requirements of the code. Benefits are allowed, provided the claimant is otherwise eligible.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible because he was an eye witnesses to the events of the separation. The employer provided one written statement to support its case.

DECISION:

The representative's October 25, 2016, decision (reference 02) is affirmed. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs