

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADAM M HULEN

Claimant

APPEAL NO: 13A-UI-05622-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 04/14/13

Claimant: Respondent (1)

Iowa Code § 96.5(1)j – Voluntary Quit Temporary Staffing Employer

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's May 10, 2013 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated in the hearing. Michael Payne, a risk manager, appeared on the employer's behalf. During the hearing Employer Exhibits One, Two and Three were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant registered to work for the employer's clients on September 14, 2012. The employer assigned the claimant to a job at Pioneer Hybrid on September 17, 2012.

On September 14, 2012, the claimant signed a document that he understood it was his obligation to contact the employer within three days of completing an assignment. (Employer Exhibit Two.) On March 22, 2013, the claimant signed a document that stated he understood he was to contact the employer for another assignment when an assignment ended. The job assignment sheet lists Lindsay Reynolds as the employer's representative to contact. (Employer Exhibit One.)

Before the claimant's assignment at Pioneer Hybrid ended, he and other employees were told they were no longer to contact Reynolds. The claimant understood that Stephi Gursky worked for the employer and he was told to contact her. Stephi Gursky did not start working for the employer until after April 2, 2013.

On April 2, 2013, Gursky told the claimant his assignment at Pioneer Hybrid had been completed. The claimant had a family medical emergency and had not contacted the employer or Pioneer Hybrid that he was unable to work one day in late March. The claimant had received a written warning before the family medical emergency for attendance issues and was told then that another written warning could end his assignment at Pioneer Hybrid. Gursky told the claimant he was not eligible for another assignment for 90 days. Even though the claimant wanted another assignment, he understood Gursky worked for the employer and believed her that he was not eligible for another assignment from the employer for 90 days. The claimant did not contact the employer after April 2 for another job. (Employer Exhibit Three.) The claimant started a new job in mid-June.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if she fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j.

The claimant's testimony that during his employment or before April 2, 2013, he and other temporary employees were told they were no longer to contact Reynolds is credible. The claimant understood Gursky worked for the employer and represented the employer's interests. Since Gursky currently works for the employer, she could have participated in the hearing but did not. As a result, the claimant's testimony as to what Gursky told him on April 2, that he was not eligible for another assignment for 90 days, is not disputed. The claimant established good cause for not contacting the employer within three days after his assignment at Pioneer Hybrid ended. 871 IAC 24.26(15).

If the employer discharged the claimant, the evidence must establish he committed work-connected misconduct before the claimant can be disqualified from receiving benefits.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The facts do not establish that the claimant committed work-connected misconduct. Since the claimant did not voluntarily quit his employment without good cause and was not discharged for work-connected misconduct, he is qualified to receive benefits as of April 14, 2013.

DECISION:

The representative's May 10, 2013 determination (reference 03) is affirmed. The claimant did not quit for disqualifying reasons and the employer did not discharge him for reasons that constitute work-connected misconduct. As of April 14, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css