

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MATTHEW P GOURD**

Claimant

**ADVANCE SERVICES INC**

Employer

**APPEAL 18A-UI-08233-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/08/18**

**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 26, 2018, (reference 01), unemployment insurance decision that denied benefits based upon a determination that claimant was discharged from employment. The parties were properly notified of the hearing. A telephonic hearing was held on August 23, 2018. The claimant, Matthew P. Gourd, participated. The employer, Advance Services, Inc., participated through Melissa Lewien, Risk Management; and Mandi Graham, HR Coordinator. Employer's Exhibits 1 and 2 were received and admitted into the record.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time, most recently as a building maintenance employee assigned to work at Sheraton, from September 28, 2017, until June 2, 2018, when he quit. Claimant received the employer's policy that requires, within three working days of the end of the assignment, the employee notify the employer of their availability for work and ask for another assignment so they may be reassigned and continue working. (Employer's Exhibit 1) Claimant last reported to work for the employer on May 17, 2018, to his assignment at Wells Fargo Arena. On May 18, claimant overslept and missed work. Wells Fargo Arena ended his assignment that day. Someone from Advance Services came by claimant's house that day and asked for his work shirts. She also retrieved his cell phone. When this employee was at claimant's home, claimant inquired about additional assignments through the employer.

On or about May 30, 2018, claimant agreed to begin a new assignment with Advance Services at the Sheraton Hotel. Claimant was scheduled to start this assignment on June 2, 2018. Claimant did not report to the Sheraton Hotel on June 2. Graham tried to contact claimant that day, but he did not answer his phone. Graham spoke with claimant the following day, and claimant told her that he did not report to the assignment because the black pants he would have been required to wear were the same pants he wore for his mother's funeral, which

caused him to have a breakdown. Claimant also reported that he no longer needed employment with Advance Services because he found another job with The Great Escape. Claimant testified that he never began working for The Great Escape. Claimant never made any contact with the employer after this conversation. Continued work was available.

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

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

Iowa Code §96.5(1) 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.

Iowa Admin. Code r. 871-24.25 provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer: ...

(3) The claimant left to seek other employment but did not secure employment.

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. (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 lettered 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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an assignment *and* who seeks reassignment." (Emphasis supplied.) Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). In this case, claimant notified the employer that he was seeking another employment opportunity and no longer needed work. Claimant never came back within three working days to request a new assignment from the employer. While he may have sought work with a new employer, he testified that he never began that assignment. Therefore, claimant is considered to have quit his employment without good cause attributable to the employer. Benefits are withheld.

#### **DECISION:**

The July 26, 2018, (reference 01), unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

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