

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER M FREDE
Claimant

APPEAL NO: 06A-UI-11303-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 09/17/06 R: 03
Claimant: Respondent (1)

Section 96.5-1-j – Temporary Employment

STATEMENT OF THE CASE:

Advances Services, Inc. (employer) appealed a representative's November 8, 2006 decision (reference 01) that concluded Christopher M. Frede (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant finished a job assignment and was not assigned to another one. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 11, 2006. The claimant participated in the hearing. Tracy Davis, the office manager, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary-to-hire staffing firm. The claimant applied to work on behalf of the employer's clients on December 2, 2005. The employer assigned the claimant to a job at Cardinal on January 24, 2006.

When the claimant came to pick up his paycheck on September 22, the employer informed the claimant he was being laid off from work at Cardinal. Cardinal experienced a slowdown in work. On September 22, the employer did not talk to the claimant about another job assignment.

That next week, the claimant talked to one of the employer's representatives and informed the employers he wanted to be put on the list to be recalled to work at Cardinal. No one talked to the claimant about working at another assignment or a job in Creston. The claimant did everything the employer asked him to do and what he understood he needed to do.

The claimant established a clam for unemployment insurance benefits during the week of September 17, 2006. When the employer called the claimant to return to work at Cardinal in mid-November, he was unable to go back to work. This issue is addressed in a different representative's decision (reference 02) and was not appealed by the claimant as of December 11, 2006. Therefore, what happened when the employer called the claimant to return to work at Cardinal is not an issue that needs to be addressed in this decision.

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 sections 96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual 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 the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code section 96.5-1-j. The intended purpose of this law is to put the employer on notice that a claimant has completed a job assignment or has been laid off from a job assignment so the employer can assign the claimant to another job. If this law applies, the claimant satisfied the requirements of the law when he personally talked to the employer at the employer's office on September 22 and learned he was being laid off from work. On that day, if the employer had another job to assign the claimant, it is logical to presume the employer would have told the claimant about the job at that time. This did not happen.

Later when the claimant talked to a representative, he indicated he wanted to be put on a list to be recalled at Cardinal. Again, no one on the employer's behalf talked to the claimant about another potential job. Based on the facts of this case, the claimant is not disqualified from receiving benefits under Iowa Code section 96.5-1-j.

A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for seasonal employment. 871 IAC 24.1(113). The facts show that Cardinal laid off the claimant during a slowdown. Based on these facts, the claimant is not disqualified from receiving unemployment insurance benefits. As of September 17, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 8, 2006 decision (reference 01) is affirmed. The reasons for the claimant's unemployed status as of September 22, 2006 are for nondisqualifying reasons.

Therefore, as of September 17, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs