

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BYRON R RUANO

Claimant

APPEAL NO. 14A-UI-01005-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 12/08/13

Claimant: Respondent (2-R)

Section 96.5(1)j – Quit/Temporary
Section 96.3(7) – Overpayment
871 IAC 24.10 – Employer Participation

STATEMENT OF THE CASE:

The employer, Advance Services, filed an appeal from a decision dated January 27, 2014, reference 01. The decision allowed benefits to the claimant, Byron Ruano. After due notice was issued a hearing was held by telephone conference call on February 18, 2014. The claimant participated on his own behalf. The employer participated by Risk Manager Michael Payne. Exhibit One was admitted into the record.

ISSUES:

The issues are whether the claimant quit work with good cause attributable to the employer, whether the claimant is overpaid unemployment insurance benefits and whether the employer's account is charged due to non-participation at the fact-finding interview.

FINDINGS OF FACT:

Byron Ruano was employed by Advance Services from September 6, 2013 until October 25, 2013. He was provided with a document in Spanish, which he signed, notifying him he was to contact the employer within three days of the end of any assignment to request more work. Failure to do so would be considered a voluntary quit.

The assignment at Syngenta ended on October 22, 2013. He asked the client's supervisor, Norma, if there was any way he could continue to work there and she said there was no work for anyone. At no time did he contact the Advance Services representative whose office was also at Syngenta.

The employer stated someone did participate in the fact-finding interview but the claimant stated this was not correct. There are no documents from the fact-finding available at the time of the appeal hearing.

Byron Ruano has received unemployment benefits since filing a claim with an effective date of December 8, 2013.

REASONING AND CONCLUSIONS OF LAW:

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 claimant did not contact the temporary agency within three days of the end of the assignment as required. Under the provisions of the above Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

The issue of whether the claimant must repay the unemployment benefits received cannot be determined from the information provided at the appeal hearing. The matter should be remanded.

The claimant is overpaid in unemployment benefits.

DECISION:

The unemployment insurance decision dated January 27, 2014, reference 01, is reversed. Byron Ruano is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible. He is overpaid \$4,060.00.

The matter of deciding whether the amount overpaid should be recovered from the claimant and charged to the employer under Iowa Code § 96.3-7-b is remanded to the Agency to determine if the employer participated in the fact-finding interview.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs