

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SILVIA L MORALES
Claimant

APPEAL NO. 12A-UI-00991-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICE INC
Employer

**OC: 12/18/11
Claimant: Appellant (2)**

Section 96.5-1-j – Reassignment/Temporary Employer

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated January 23, 2012, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on March 12, 2012. Claimant participated. The employer participated by Ms. Holly Carter, Unemployment Insurance Specialist, and Official Interpreter, Ninfa Redmond. Employer's Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant voluntarily quit employment by failing to contact the temporary employer within three working days.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Silvia Morales was employed by Advance Service, Inc. from July 11, 2011 until October 6, 2011 when her long-term assignment with Monsanto Research Company came to an end. The claimant was informed on October 6, 2011 by a Monsanto company supervisor that the assignment had ended. Ms. Morales, along with other workers who had separated from Monsanto that day, reported to the Advance Service, Inc.'s local office in person to check to see if there were additional job assignments available. Ms. Morales was informed at that time that the company did not have any other temporary positions available.

When hired, Ms. Morales had signed an agreement with Advance Service, Inc. to contact the company within three working days after each assignment had come to an end to inform the temporary employer of the assignment ending and to inform the employer that she was available for additional work assignments. (See Exhibit One).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant satisfactorily complied with the three-day notice provision and did not voluntarily quit her employment.

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. 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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code § 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code § 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a

new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

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 the temporary assignment. The evidence in the record in this case establishes that Ms. Morales and a number of other workers that were separated from their temporary assignment on October 6, 2011 reported in person to the Advance Services office to report that the assignment had ended and to determine if any other jobs were available through the temporary employer.

DECISION:

The agency representative's decision dated January 23, 2012, reference 01, is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by the statute. Benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs