

Myron R. Linn

**DISSENTING OPINION OF JAMES M. STROHMAN:**

I respectfully dissent from the majority decision of the Employment Appeal Board; I would reverse the administrative law judge's decision. I would find the assignment never ended. The Claimant was placed in a temporary layoff. The client indicated to the claimant that his job wasn't ending but, instead, was a temporary layoff and that they would recall him. The Claimant did contact the employer and was simply told to stay available.

In the alternative, contrary to the findings of fact, Claimant testified that he did not receive a copy of the three-day policy separate from the contract for hire. The Claimant testified he was only given directions to the new worksite at Pioneer. If Advance Services wishes to prevail on the technicality of the law requesting reassignment, then they also need to comply with the other technicalities of the law requiring them to provide a copy of the policy to the employee.

The administrative law judge found "there is no record of Claimant's requesting reassignment." But why would there be a "record" when the Employer simply told the Claimant to stay available. The only witness for the Employer was a risk manager who was not involved in the Claimant's assignments, did not speak to him on the phone, and is only testifying that she has an electronically-signed document. Advance Services did not provide either of the two staff members that Claimant testified he had dealt with during the few times the office was actually open. The Claimant's testimony is more credible.

This Claimant, like many others, was working and wanted to continue to work. Advance Services uses trickery to avoid treating their employees fairly. They have essentially concocted a mechanism where they can always blame the employee. But If they don't have somewhere to reassign the employee, then they should be paying their unemployment. Otherwise, they are simply using their employees for their own profit and then discarding them when it's convenient to not pay them.

I don't accept this type of treatment of one's own workers - who are providing a profit to a company whose default position is to say they have no "record" of their employees asking for reassignment, at the same time they are on the phone with them telling them their job is over.

If the Employer has work for them, then they will tell them and reassign them. If they don't have any work, then they must do and say whatever it takes to avoid paying unemployment compensation. It's despicable. I would reverse the administrative law judge's decision and allow benefits.

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James M. Strohman

The Board would correct the administrative law judge's Findings of Fact at p.2, second paragraph, first sentence as follows: The claimant performed services from approximately September 16, **2020**,...

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James M. Strohman

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Ashley R. Koopmans

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Myron R. Linn

AMG/fnv