

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ARTURO ALVAREZ**  
Claimant

**APPEAL NO. 10A-UI-14084-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 08/01/10**  
**Claimant: Appellant (2)**

Section 96.5(1)(j) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

Arturo Alvarez filed a timely appeal from the October 8, 2010, reference 04, decision that denied benefits in connection with a separation on or about September 11, 2010. After due notice was issued, a hearing was held on November 29, 2010. Mr. Alvarez participated. Holly Carter, Unemployment Insurance Specialist, represented the employer. Exhibits One, Two, and Three were received into evidence.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. The claimant had two work assignments through the employer. The most recent work assignment was a full-time temporary work assignment at Blue Bunny. The claimant completed that assignment on September 10, 2010. Blue Bunny ended the assignment because it no longer had work for the claimant. The claimant did not make any further contact with the temporary employment agency after he separated from the Blue Bunny assignment.

In February 2010, the employer had the claimant sign two policy documents. Both contained a full page of text and set forth multiple policies. Each document included a policy requiring the claimant to contact the employer within three working days of the end of an assignment. The employer did not have the claimant sign a stand-alone document containing only the end-of-assignment notice requirement.

## 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.

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 section 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 section 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 employer's methods of conveying the end-of-assignment notice requirement did not satisfy the requirements set for in Iowa Code section 96.5(1)(j). The statute required a separate, stand-alone document containing only a clear and concise statement of the end-of-assignment notice requirement. What the employer had the claimant sign instead was exactly the sort of document the Iowa Legislature had in mind when it enacted the statute—documents that bury the policy amongst other policies such that the claimant would not receive meaningful notice of his obligation to contact the employer or the impact of failing to do so. Because the employer did not comply with the statute, the employer cannot claim the benefit of the statute to disqualify the claimant for unemployment insurance benefits. The claimant completed the assignment. That ended the claimant's obligation to the employer. The claimant was not required to make further contact with the employer or seek further assignments through the employer.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that the claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Mr. Alvarez is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to Mr. Alvarez.

**DECISION:**

The Agency representative's October 8, 2010, reference 04, decision is reversed. The claimant's September 10, 2010 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/kjw