

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

TIM A BRIGHT
5333 D AVE
RED OAK IA 51566

ADVANCE SERVICES INC
c/o TALK UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 05A-UI-01409-CT
OC: 12/19/04 R: 01
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

Advance Services, Inc. filed an appeal from a representative's decision dated January 31, 2005, reference 02, which held that no disqualification would be imposed regarding Tim Bright's separation from employment. After due notice was issued, a hearing was held by telephone on February 24, 2005. Mr. Bright participated personally. The employer participated by Lisa Vetter, Regional Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Bright began working for Advance Services, Inc., a

temporary placement firm, on December 5, 2003. His last assignment was with AKS Precision Ball Company, where he began working full time on May 27, 2004. He was removed from the assignment after his last day of work on June 14. The removal was based on his attendance. He had missed one day of work on June 9 and left work early with permission on June 11. Mr. Bright was advised of his release during a telephone conversation on June 15.

On June 18, Advance Services, Inc. contacted Mr. Bright and offered him another full-time assignment with NSK. Mr. Bright indicated he would consider the offer and get back to the employer but never did. He did not have a claim for job insurance benefits on file at the time the work was offered and refused.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Bright was separated from employment for any disqualifying reason. He became separated from employment effective June 15, 2004 when he was removed from his assignment with AKS. The removal was due to his attendance. Mr. Bright had only one unexcused absence during his assignment, that of June 9 when he was absent for a job interview. The administrative law judge does not consider this one unexcused absence to be sufficient to establish excessive unexcused absenteeism within the meaning of the law.

Mr. Bright was in contact with Advance Services, Inc. within three working days following the end of his assignment. Therefore, he satisfied the requirements of Iowa Code section 96.5(1)j. It is true that Mr. Bright declined work that was offered to him on June 18. However, Iowa Workforce Development does not have jurisdiction over work refusals which occur prior to the filing of a claim for job insurance benefits. See 871 IAC 24.24(8). Accordingly, no disqualification may be imposed for the refusal.

After considering all of the evidence, the administrative law judge concludes that Mr. Bright was separated from employment on June 15, 2004 for no disqualifying reason.

DECISION:

The representative's decision dated January 31, 2005, reference 02, is hereby affirmed. Mr. Bright was separated from Advance Services, Inc, for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/sc