

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KHRIEZ JOY P DE LA CRUZ
Claimant

APPEAL NO. 17A-UI-01618-TNT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 12/18/16
Claimant: Appellant (1)

Iowa Code § 96.5(1)j – Voluntary Leaving -- Temporary Employment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated February 9, 2017, reference 04, which denied unemployment insurance benefits finding that the claimant voluntarily quit employment on November 11, 2016, when the claimant failed to notify the temporary employment firm within three working days of the completion of the last work assignment of her availability for more assignments. After due notice was provided, a telephone hearing was held on March 3, 2017. Claimant participated. The employer participated by Ms. Millissa Lewien, Risk Manager. Claimant's Exhibit A and Employer's Exhibits 1 and 2 were admitted into the hearing record.

ISSUE:

The issue is whether the claimant voluntarily quit employment by failing to contact the temporary employment firm within three working days of her last assignment to establish her availability for additional assignments.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Khriez Joy P. De La Cruz began employment with Advance Services, Inc. on June 27, 2016. The claimant was assigned to work as a full-time assembler at the Pella Corporation and was paid \$11.50 per hour by Advance Services, Inc. At the time Ms. De La Cruz accepted employment with Advance Services, Inc., she signed an agreement to contact the temporary employment firm within three working days following each assignment and that failure to do so would be considered a voluntary quit and may affect the claimant's unemployment insurance benefits. (See Employer's Exhibit 2)

The claimant's assignment through Advance Services, Inc. at the Pella Corporation came to an end on January 6, 2017. Employees of Advance Services, Inc. had been notified approximately two weeks in advance that the assignment would end. On January 6, 2017, Ms. De La Cruz telephoned Advance Services, Inc. to inform them that her assignment at the Pella Corporation had ended. The claimant did not inquire about additional work and did not state her availability for additional assignments. Although the claimant had agreed to contact the temporary

employment firm within three working days to establish her availability for more assignments when she began employment, it was the claimant's belief that she only needed to contact the temporary employment service. Subsequently, Ms. De La Cruz learned from another individual that in addition to contacting the temporary employment service, she was also required to inquire about additional assignments.

On January 12, 2017, the claimant contacted Advance Services, Inc. and at that time inquired about an additional job assignment. That contact, however, did not take place within three working days following the last day of Ms. De La Cruz's assignment at Pella Corporation. Subsequently, Ms. De La Cruz declined offers of assignments made to her by Advance Services, Inc., including an offer to return to the temporary job she previously held through Advance Services, Inc. at the Pella Corporation. Claimant was engaged in educational pursuits and indicated she would not be remaining in the country.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the claimant voluntarily left employment without good cause reason attributable to the employer.

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Iowa Admin. Code r. 871-24.26(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.

In the case at hand, the claimant accepted employment through Advance Services, Inc. and agreed to contact the temporary employment service within three days of the completion of each temporary assignment for another work assignment. The purpose of the agreement was to provide notification to the temporary employment service that the claimant was available and seeking additional work. Although the evidence establishes that Ms. De La Cruz made contact with Advance Services, Inc. by telephone on January 6, 2017, she made no inquiry about additional assignments and only notified the temporary employment company that her assignment at Pella Corporation had ended. Later, after receiving information from another individual, Ms. De La Cruz contacted Advance Services, Inc. again by telephone. In that contact with Advance Services, Inc. on January 12, 2017, the claimant asked about an additional assignment. It appears that she has been told by another individual that she must ask about an additional job assignment in order to be eligible to receive unemployment insurance benefits. Ms. De La Cruz later accepted a temporary assignment beginning on January 23, 2017 that ended January 29, 2017. Later, the claimant declined an offer to return to the assignment at Pella Corporation because the claimant planned to continue her educational pursuits and then relocate.

It is undisputed that although the claimant had been instructed to contact the temporary employment firm within three working days of completion of each assignment to inform the temporary employer of her availability for additional assignments, the claimant did not do so until January 12, 2017. Because the claimant did not contact the temporary employment firm to establish her availability for additional assignments within three working days as agreed, the claimant is considered to have left her employment without good cause attributable to the employer. Accordingly, the claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated February 9, 2017, reference 04, is affirmed. Claimant voluntarily quit her employment on November 11, 2017, by failing to contact the temporary employment firm within three working days to establish her availability for more work assignments as agreed. Claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terry Nice
Administrative Law Judge

Decision Dated and Mailed

rvs/rvs