

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LULA L LEWIS
Claimant

APPEAL NO. 10A-UI-10707-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

**Original Claim: 06/27/10
Claimant: Respondent (1)**

Section 96.5-1-j – Voluntary Leaving - Temporary Employment

STATEMENT OF THE CASE:

Advance Services, Inc. filed a timely appeal from a representative's decision dated July 28, 2010, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone hearing was held on September 15, 2010. The claimant participated personally. The employer participated by Ms. Holly Carter, unemployment insurance specialist. Employer's Exhibits One through Four were received into evidence.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Lulu Lewis was employed by Advance Services, Inc. from June 15, 2009, until June 25, 2010. Ms. Lewis worked on two long-term assignments at ConAgra Foods doing general labor. The claimant's most recent assignment ended on June 25, 2010.

Ms. Lewis was informed on June 25, 2010, by LuAnn King, the claimant's contact person with Advance Services, that her assignment at ConAgra had ended. Ms. Lewis made a verbal inquiry at that time as to whether there were other assignments available and was informed by Ms. King that there were no other assignments at that time.

It is the employer's position that company records do not reflect that Ms. Lewis contacted the company within three days to seek other employment. At the time of hire, the claimant signed an agreement to contact the temporary employer within three working days of the completion of an assignment to inform the temporary employer that she was available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

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 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 establishes that Ms. Lewis made herself available for additional assignments within three working days by inquiring as whether other assignments were available at the time that she was notified by an Advance Services employee that her most recent assignment had ended.

DECISION:

The representative's decision dated July 28, 2010, reference 01, is affirmed. 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

kjw/kjw