

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE M DUCHARME
Claimant

APPEAL NO. 11A-UI-07057-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 04/24/11
Claimant: Appellant (2-R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 23, 2011, reference 01, which denied benefits finding that claimant voluntarily quit employment without good cause attributable to the employer. After due notice, a telephone hearing was held on June 21, 2011. Claimant participated personally. Participating on behalf of the employer was Ms. Holly Carter, Hearing Representative, and witness, Tammy Dosart, Branch Manager.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Claimant was employed by Advance Services, Inc. beginning July 2009. Claimant's most recent assignment was with Centro, Inc. from September 14, 2010 until April 19, 2011 when the assignment was ended by the client. Mr. Ducharme contacted Advance Services, Inc. as required within three working days. The circumstances under which the claimant's most recent assignment ended did not preclude Mr. Ducharme from being assigned to other accounts by Advance Services, Inc.

On April 21, 2011, Mr. Ducharme was contacted by Advance Services, Inc. about a new work assignment that was to take effect April 24, 2011. Mr. Ducharme declined the offer as he did not wish to take a drug screen.

It is the employer's position that the claimant's refusal to take the drug screen for the new assignment constituted a "quit" on April 21, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant's refusal to accept another work assignment on April 21, 2011 constituted a quit. It does not.

Iowa Code § 96.5-1 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.

871 IAC 24.26(19) provides:

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.

The evidence in the record establishes that Mr. Ducharme's most recent assignment had come to an end on April 19, 2011 and that the circumstances of the most recent assignment ending did not preclude Mr. Ducharme from being offered other work assignments by Advance Services, Inc. The claimant's decision to refuse a work assignment on April 21, 2011 did not constitute a quit under the above-cited portion of the Iowa Administrative Code. The administrative law judge concludes that the claimant shall not be disqualified for his refusal on April 21, 2011.

The administrative law judge remands the issue of the claimant's availability for work and the issue of whether the claimant refused suitable work back to the UIS Division for investigation and the issuance of an appealable determination for the issues of the claimant's availability and/or refusal of suitable work.

DECISION:

The representative's decision dated May 23, 2011, reference 01, is reversed. Claimant is not subject to a benefit disqualification for voluntarily quitting his employment on April 21, 2011 and is eligible to receive unemployment insurance benefits, provided that he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs