

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BRENDA C CALVIN**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 17A-UI-08140-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/29/17**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 7, 2017, (reference 05) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on August 28, 2017. Claimant participated. Employer participated through risk manager Melissa Lewien and human resources coordinator Jessica Kruse. Employer's Exhibit 1 was received.

**ISSUE:**

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time boxer assigned at Mackay Mitchell Envelope through Monday, July 10, 2017, when the assignment ended. Human resources coordinator Jessica Kruse notified claimant of the end of the assignment the same day, and they discussed the lack of reason for the separation. Claimant reported to the office on Wednesday, July 12, signed "the sign-in book" indicating she available and looking for work. She also asked human resources coordinator Kelly Wheeler for another assignment but there was none available. Wheeler called claimant on Thursday, August 13, asking her to return the Mackay badge (door key). On Friday, August 14, 2017, claimant reported, signed the book and returned the door key.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was 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. (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.

It is the duty of the administrative law judge as the trier of fact in this case, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa Ct. App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other believable evidence; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

Claimant filed her additional claim for unemployment insurance benefits between July 10 and July 12, 2017, since in response, the notice of claim was provided to the employer via SIDES on July 12, 2017. (Administrative Record.) The message report was not created by Kruse until July 17, 2017, and had notes that were not made contemporaneously with events during the period from July 10 through July 14, 2017. It was printed, presumably in anticipation of the appeal hearing<sup>1</sup>, on August 22, 2017. In the message report Kruse alluded to communication between July 10 and Thursday, July 13, when she wrote, "Thursday afternoon, we received another email from Mike asking if we had received Brenda's door key. We had not." (Employer's Exhibit 1) She did not include information about that earlier communication with claimant asking her a first time to return the badge. Wheeler, referenced in the exhibit and

---

<sup>1</sup> The appeal hearing notice was mailed to both parties on August 15, 2017.

testimony, did not appear at hearing and the employer did not include her message reports for the week as related to communication with claimant to get the badge back or for any other reason. Kruse denied that claimant signed the book but the employer did not provide or offer copies of the sign-in book for the week in question along with the other documents (message report, assignment policy, and job assignment sheet) in Employer's Exhibit 1. Accordingly, the employer has not overcome the claimant's credible rebuttal of the employer's allegations that she did not seek work during any of multiple conversations with the employer and reports to the office during the three days following the separation.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since she contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, no disqualification is imposed.

**DECISION:**

The August 7, 2017, (reference 05) unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/rvs