

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**ORVILLE L MOORE**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 16A-UI-01897-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/20/15**  
**Claimant: Appellant (4)**

---

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 2, 2016 (reference 03) 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 March 22, 2016. Claimant participated with his spouse Jennifer Moore. Employer participated through risk manager Michael Payne. Employer's Exhibit One 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 by ASI full time as a temporary assembler assigned at Pella Corporation (Pella) on August 28, 2015 and was separated from the assignment on Friday, January 8, 2016; the last day of work. On January 11, 2016, claimant asked Tiffany Visser (Visser is no longer employed but Jamie Horn was present at the time) about his unemployment insurance claim and asked for work. Then on Wednesday, January 13, he spoke to Jamie Horn who set him up for an interview with CHQ on January 14. He was offered a position with CHQ to begin on January 27 but he said he had other work through Manpower to start on January 26. He later told ASI that the job had fallen through. He filed a claim for unemployment insurance benefits that week ending January 30, 2016 but did not report wages or indicate he was working. He returned to ASI on February 1, 2016; to ask for further work. The employer attempted to reach him about available work on March 2, 17, and 18; and left unreturned voice mail messages. His last day of work with Manpower is Wednesday, March 23, 2016 and he will return to a Pella assignment through ASI for orientation on Friday, March 25, 2016.

## REASONING AND CONCLUSIONS OF LAW:

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

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.

Each assignment with a temporary agency is considered a separate period of 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 each temporary assignment so they may be reassigned and continue working. Claimant did not initiate the separation from the Pella assignment but was laid off due to a lack of work. Even though the Pella assignment ended, claimant remained an employee of ASI for another three working days subject to the requirements of Iowa Code § 96.5(1)j. At that point, the separation qualification status is evaluated. Both parties' evidence is questionable at points. The employer did not present any witness with first-hand knowledge even though Horn is still employed. Claimant's spouse's testimony was internally inconsistent about watching him go into the ASI office or accompanying him on January 13, and claimant's statements and weekly claim certification about work at Manpower are inconsistent. Even so, there is no dispute that claimant reported on January 13, within three work days of January 8, 2016, and asked for more work that resulted in his interview with CHQ the following day. Since work was not available there until January 27 and, taking claimant at his word that he obtained employment with Manpower on January 26, 2016, benefits are allowed for the two weeks ending January 23, 2016. Because he was working elsewhere effective Tuesday, January 26, 2017, he was not eligible for benefits effective January 24, 2016.

**DECISION:**

The February 2, 2016 (reference 03) unemployment insurance decision is modified in favor of the appellant. The claimant's separation was attributable to the employer. Benefits are allowed, provided he is otherwise eligible, for the two weeks ending January 23, 2016.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/can