

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE TIERNEY

Claimant

APPEAL NO. 08A-UI-08348-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

**OC: 11/11/07 R: 01
Claimant: Appellant (2)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Julie Tierney (claimant) appealed an unemployment insurance decision dated September 10, 2008, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Advance Services, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 2, 2008. The claimant participated in the hearing. The employer participated through Angie Janssen, Human Resources Coordinator. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant disqualified because she failed to contact the temporary employment agency within three working days after the completion of her assignment when notified of this requirement at the time of hire?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant has worked five temporary assignments for this employer beginning January 5, 2006 and ending on April 9, 2008. The employer testified the claimant should have been given the notification requirements at the time of her employment application but the employer did not have the claimant's personnel records. The employer testified the notification requirement is separate than the employment contract. The claimant does not remember what she received at the time of hire but has not completed a subsequent application after her original date of hire. The claimant's last assignment began on April 9, 2008 and ended on this same date when the contracted employer decided it did not need any temporary workers. The claimant was notified at the end that she was not needed anymore. She testified that she has called Rosie, from the Nebraska office, each Monday since the end of her assignment. The employer had no documentation the claimant called in for additional assignments but could not dispute the claimant's testimony, since the personnel records were in another office.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. See Iowa Code §§ 96.5-1 and 96.5-2-a. Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without 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.

The evidence is not clear as to whether or not the employer's end-of-assignment notification policy satisfies the requirements of Iowa Code § 96.5(1)(j). However, the claimant testified that she has contacted the employer each Monday since the completion of her last assignment and

the employer could not rebut that testimony. Consequently, the claimant is considered to have voluntarily quit with good cause attributable to the employer and benefits are allowed.

DECISION:

The unemployment insurance decision dated September 10, 2008, reference 01, is reversed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css