

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA G VANDERWEIDE
Claimant

APPEAL NO: 12A-UI-15058-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 08/05/12

Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Linda G. Vanderweide (claimant) appealed a representative's December 20, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Advance Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 14, 2013. The claimant participated in the hearing and presented testimony from one other witness, MaryAnne Longbine. Michael Payne appeared on the employer's behalf. During the hearing, Employer's Exhibits One, Two, and Three were entered into evidence. 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:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on September 4, 2007. Her most recent assignment prior to the representative's decision began on August 27, 2012. She worked full time as a general laborer at the employer's Washington, Iowa business client through November 23, 2012. The assignment ended that date because the business client deemed the assignment to be completed.

The employer asserted that the claimant did not separately contact the employer within three days of the end of the assignment to seek reassignment as required by the employer's policies to avoid being considered to be a voluntary quit. However, on November 23 the claimant spoke to the employer's human resources coordinator, Longbine, about the ending of the available work; Longbine told the claimant that she was "done until after the first of the year," and "I'll see you after January 1." The claimant was in fact then recalled for work on January 2, 2013.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j; 871 IAC 24.26(15). The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. The claimant did speak to the employer about continued work and was affirmatively told that she was done until after the first of the year. She reasonably relied on this assertion by the employer to conclude she had done what she needed to do to seek reassignment; she substantially complied with the statutory requirement. The claimant is not required by the statute to remain in regular periodic contact with the employer in order to remain "able and available" for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

DECISION:

The representative's December 20, 2012 decision (reference 01) is reversed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs