

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES R DAVIS

Claimant

APPEAL NO: 14A-UI-09506-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 07/20/14

Claimant: Respondent (1)

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

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed a representative's September 11, 2014 decision (reference 01) that concluded James R. Davis (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 3, 2014. The claimant participated in the hearing. Michael Payne appeared on the employer's behalf. During the hearing, Employer's Exhibits One and Two 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's first and to date only assignment began on January 22, 2014. He worked full time as a laborer at the employer's Aurelia, Iowa business client through July 14, 2014. The claimant had arranged to be off work from July 15 through July 20, to return on July 21. However, on or about July 15 the employer's on-site representative contacted the claimant and advised him that he was being temporarily laid off by the business client but would be recalled to the assignment after Labor Day (September 1). The representative did not indicate to the claimant that in the interim he should be seeking reassignment through the employer with any other local business clients that might have had work available. The claimant made several other contacts with the on-site representative between July 21 and September 1, but again the representative made no reference to the need to seek other assignments. When the claimant again contacted the on-site representative on or about September 2, she advised him that the business client had decided not to recall the claimant to the assignment. The claimant had been given notice of the employer's policies regarding seeking reassignment to avoid being considered to be a voluntary quit.

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 his employment with the employer if he 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, unless there is good cause not to have made that contact. Iowa Code § 96.5-1-j. 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.

Where a temporary employment assignment has ended by the completion of the assignment of and the employer is aware of the ending of that assignment, the employer is already on “notice” that the assignment is ended and the claimant is available for a new assignment; where the claimant knows that the employer is aware of the ending of the assignment, he has good cause for not separately “notifying” the employer. 871 IAC 24.26(15).

Here in particular the employer’s on-site representative had effectively discouraged the claimant from seeking reassignment elsewhere by advising him on or about July 15 that he was going to be recalled to the initial assignment within about six weeks and that he was just “temporarily laid off” from the assignment. That “temporary” layoff subsequently became permanent. 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 September 11, 2014 decision (reference 01) is affirmed. 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 he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css