

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

EMSUD ALAGIC
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 14A-UI-11949-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/26/14
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

The employer filed an appeal from the November 17, 2014, (reference 02) unemployment insurance decision that allowed benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on December 9, 2014. Claimant participated through interpreter, Azra Sikiric. Employer participated through risk manager Michael Payne. Employer's proposed Exhibit 1 was not received because it is illegible.

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 full time as a laborer assigned at Pioneer at Dallas Center, Iowa beginning September 24, 2014, and was separated from employment on October 21, 2014, when he completed the assignment. The client notified him in a meeting conducted in English that the work ended. Claimant's first language is Bosnian. He claims to understand, speak and read some English but required an interpreter for the appeal hearing. He did not contact Advance Services thereafter. He signed for and received the reporting policy when hired. The policy was written in English and no one translated or interpreted it for him. He does not recall being told to contact the employer at the end of the assignment. After the assignment ended he went to Pioneer's Johnston office and asked what to do next. Ms. Kenny told him to go home and wait until they have work for him. She called him later at home gave him a telephone number for Advance Services. He called and spoke to Tiffany in the Ames office on October 30.

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 § 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 § 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 § 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.

Since employer provided no evidence that it presented claimant with a comprehensible written copy of the reporting policy, claimant's recollection that he did not receive or understand a notice of the reporting policy is credible. Furthermore, the employer hired claimant for mutual benefit to fill a temporary work order from Pioneer with the knowledge that English is not his first language but expected him to understand the reporting policy written in English without providing translation or interpretation assistance. Without knowledge or understanding of the reporting policy, and misdirected advice from the client, claimant was reasonable to opt to look for work elsewhere or to report for additional work when he did.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The November 17, 2014, (reference 02) decision is affirmed. The claimant's separation from employment was attributable to the employer. The employer had adequate knowledge about the conclusion of the claimant's assignment but had no further work available at the time. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css