

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN P ANDERSON**  
Claimant

**APPEAL NO. 12A-UI-01911-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 06/05/11**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the February 17, 2012 (reference 04) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on March 13, 2012. Claimant participated. His witness John Tallman was not available to participate. Employer participated through unemployment specialist, Holly Carter. Employer's Exhibit 1 was admitted to the record.

**ISSUE:**

Did claimant voluntarily leave the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed temporary full time as a laborer at Eaton Corporation and was separated from employment on January 10, 2012. According to Carter the client company ran out of work but the employer's electronic notes indicate claimant was "not working out" because of attendance and did not request further assignment according to Maira Chavez of the Nebraska City office who notified claimant over the phone. (Employer's Exhibit 1, page 2) Claimant signed the reporting policy. (Employer's Exhibit 1, page 1) He did request further assignment from Chavez on January 10 in the presence of John Tallman. Neither Chavez nor Tallman participated.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer and adequately notified employer of his availability for additional assignments and requested reassignment.

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.

871 IAC 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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. The parties disagree whether claimant sought additional work with the employer on January 10 when Chavez told him not to report back to work. This requires an analysis of party credibility. While the employer has written notes, it is still considered hearsay and the testimony about the reason for the separation from the assignment was inconsistent with the electronic notes. Claimant credibly rebutted and was prepared to call a witness to his request for additional work. Since the employer notified claimant of the end of the assignment and he asked for more work within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, benefits are allowed, provided the he is otherwise eligible.

**DECISION:**

The February 17, 2012 (reference 04) decision is reversed. 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. The benefits withheld shall be paid to claimant.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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