

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA LOPEZ

Claimant

APPEAL NO: 14A-UI-13333-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 11/30/14

Claimant: Appellant (4)

Section 96.5-1 – Voluntary Leaving/Requalification

STATEMENT OF THE CASE:

Maria Lopez (claimant) appealed a representative's December 19, 2014 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits because of 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 2, 2015. The claimant participated in the hearing. Michael Payne appeared on the employer's behalf. Ike Rocha served as interpreter. 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 modifying the representative's decision and allowing the claimant benefits.

ISSUE:

Did the claimant voluntarily quit, and if so is she disqualified from receiving unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant's first and to-date only assignment with the employer began on September 3, 2013. She worked full time as a general laborer at the employer's Marshalltown, Iowa business client. Her last day on the assignment was October 21, 2013. The assignment ended because she ceased reporting for work after that date. The claimant may have mistakenly believed that her assignment was done as of October 21, but continued work remained available for the claimant on the assignment, most likely through about November 22, 2014. The employer had about 96 persons working on the assignment, and only the claimant and another employee ceased reporting for work as of October 22.

The claimant established an unemployment insurance benefit year effective November 30, 2014. Her weekly benefit amount was calculated to be \$146.00, based upon the wages in the high quarter of her base period, which was the fourth quarter 2013, which contains exclusively wages from this employer. However, the claimant did have employment from two other employers after the employment with this employer ended; one from about September 5

through about October 10, 2014, and another from about October 21 through about November 25, 2014. Agency records indicate that with these two other employers the claimant did earn at least \$1,460.00 in wages for insured work after October 21, 2013.

REASONING AND CONCLUSIONS OF LAW:

Rule 871 IAC 24.25 provides that, in general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. A voluntary leaving of employment requires an intention to terminate the employment relationship. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out by ceasing reporting for available work. The claimant would normally be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code §96.6-2. The claimant has not satisfied her burden.

However, Iowa Code § 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge further concludes from the available information record that the claimant has requalified for benefits since the separation from this employer and prior to establishing her claim for unemployment insurance benefits. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The representative's December 19, 2014 decision (reference 03) is modified in favor of the appellant. The claimant voluntarily left her employment without good cause attributable to the employer, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs