

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MITCH WILSON SR
Claimant

APPEAL NO. 13O-UI-01667-WT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 10/14/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge for Misconduct
Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

Employer filed an appeal from a fact-finding decision dated November 9, 2012, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on December 14, 2012. Following hearing, an administrative law judge denied benefits. Claimant appealed arguing that his phone call was dropped and he did not participate fully in the hearing. The Employment Appeal Board remanded the matter to take additional testimony to allow the claimant to participate fully. A new hearing was scheduled for and held on March 22, 2013. Claimant participated personally and he had one witness, Marge Waterson. Employer participated by Michael Payne, Loss Prevention Specialist. Exhibits 1 through 2 were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds:

Claimant was employed as a temporary full-time employee for Advance Services, assigned to Dean Foods in Sioux City, Iowa. Claimant's assignment ended on October 12, 2012. The employer's policy requires individuals to check in with the employer when an assignment has ended.

The claimant reported to Advance Services office in Sioux City on October 15 and October 18 and was told there was no work for him at that time.

REASONING AND CONCLUSIONS OF LAW:

Individuals employed by a temporary employment firm shall be disqualified from benefits if they fail to seek reassignment in accordance with Iowa Code section 96.5(1)(j) (2011). "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.” Id.

In this context, actual knowledge is considered “notice.” In other words, if an employer has actual knowledge of the end of the assignment, then the employee is not required to comply with the provisions of section 96.5(1)(j).

In this matter, the evidence established that the employer has a policy which requires an employee whose assignment ends to report in for their next assignment. In this case, claimant did that by going to the Advance Services office in Sioux City. The claimant is found to be credible and his credible testimony is supported by the testimony of his friend, Marge Waterson, who drove him to the office.

DECISION:

The fact-finding decision dated November 9, 2012, reference 01, is affirmed. Claimant is eligible to receive unemployment insurance benefits, provided claimant meets all other eligibility requirements.

Joseph L. Walsh
Administrative Law Judge

Decision Dated and Mailed

jlw/css