

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN MORRIS
Claimant

APPEAL NO: 13A-UI-07745-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 01/27/13
Claimant: Appellant (1)

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

John Morris (claimant) appealed an unemployment insurance decision dated June 20, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Advance Services, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 8, 2013. The claimant participated in the hearing. The employer participated through Michael Payne, Risk Management. Employer's Exhibits One through Three were admitted into evidence.

ISSUE:

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment, when and if notified of this requirement at the time of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment agency and the claimant was hired on March 15, 2013. At the time of hire, he signed an availability statement which advised him of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit. The claimant was given a copy of the availability statement, which is not part of the application or contract of employment.

The claimant was assigned to General Financial Supply on March 18, 2013 and worked through April 12, 2013. He called in on April 15, 2013 to report his absence due to illness. The employer called him back and told him that if he did not report to work on April 16, 2013 with a doctor's note, he would be terminated from the assignment. The claimant did not report to work on April 16, 2013 and the employer has no record him calling in to report the absence. He was taken off that assignment but available for other assignments. The employer has no record of the claimant calling in requesting work until May 17, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and the employer did so in this case. The employer must also notify the individual that he may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j. The claimant was given a copy of the availability statement which advised him that failure to contact the employer after the end of an assignment could result in a loss of unemployment benefits.

The claimant's assignment ended on April 16, 2013 after he failed to call or report to work that day. Although he contends he called the employer that day and several other days, his testimony was not as credible as the employer's evidence. The employer relied on documented time and date stamps and the claimant went from memory. The claimant did not satisfy the requirements of Iowa Code § 96.5-1-j and is disqualified from receiving unemployment insurance benefits as of April 20, 2013.

DECISION:

The unemployment insurance decision dated June 20, 2013, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css