

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLAS SPRIGGS

Claimant

APPEAL NO: 14A-UI-01379-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 01/12/14

Claimant: Respondent (1)

Section 96.5(1) – Voluntary Leaving
871 IAC 24.26(19 & 22) – Voluntary Leaving
Section 96.5-1-j – Reassignment from Employer

STATEMENT OF CASE:

The employer filed a timely appeal from the February 5, 2014, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 27, 2014. The claimant participated in the hearing. Michael Payne, Risk Management and Candy Ashman, Office Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUES:

The issues are whether the claimant voluntarily left his employment and whether he sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general laborer for Advance Services last assigned to Pella Corporation from May 6, 2013 to January 10, 2014. The claimant's assignment ended due to a lack of work.

The employer's policy states that employees must contact it within three business days to report the end of an assignment and to seek further work and failure to do so will be considered a voluntary quit (Employer's Exhibit One and Two). The claimant signed the documents May 6, 2013.

On December 18 or 19, 2013, the employer and Pella Corporation notified the temporary employees their assignments would end effective January 10, 2014. They offered a question and answer session but did not provide any information about the employees seeking further assignments beyond having a facilitator encourage the employees to call the employer so they could return to work at Pella Corporation when it recalls workers in March 2014. The claimant called the employer January 13, 2014, to discuss the possibility of receiving unemployment insurance benefits until he was recalled to work at Pella and to state he was willing to work.

The claimant, who had not worked for a temporary employment agency before, assumed the employer only wanted to use him at Pella, but testified he would have accepted any suitable assignment. He said he was ready to return to work and intended that to mean work for any of the employer's clients and not only Pella Corporation. The claimant also stopped by the employer's office February 24, 2014, to ask what he needed to do to be ready to return to work and testified he meant to convey he was willing to work any suitable assignment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not disqualifying.

Iowa Code section 96.5-1 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.

Iowa Code section 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.

The claimant completed the assignment and it ended January 10, 2014, due to a lack of work. The remaining issue is whether the claimant sought reassignment from the employer. The claimant called the employer January 13, 2014, to ask about unemployment benefits until he was recalled by Pella Corporation but also to state he was willing to work. While he had signed the employer's policy eight months earlier, during the flurry of new hire paperwork, he did not understand the employer wanted him to use the specific words of "request further assignment." Because of the claimant's lack of experience with temporary employment agencies, he thought the employer only planned to use his services at Pella Corporation and although he stated he was willing to work. If the employer had simply asked him an additional question regarding whether he would accept an assignment with a client other than Pella Corporation, or would only work for Pella Corporation, this situation could likely have been avoided. After providing employees with copies of the policy about seeking additional assignments upon the completion of another assignment on the first day of employment, the employer never mentions that requirement again, regardless of how long the assignment ran, how many assignments that particular employee has had or the fact that the employer is the entity notifying the employee the assignment is ending, which can lead to confusion about why the employee must then call the employer back within three days to tell it the assignment ended in order to comply with the policy. Although the claimant did ask about receiving unemployment benefits until he was recalled by Pella Corporation, the evidence does not establish that he did not say he was willing to work in general, and he was no less specific than was the employer. Under these circumstances, the administrative law judge concludes the claimant did seek further assignment from the employer. Therefore, benefits are allowed.

DECISION:

The February 5, 2014, reference 02, decision is affirmed. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css