

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRUNO ZAVALA-NACIANCENO
Claimant

APPEAL NO: 10A-UI-16614-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 10/07/07
Claimant: Appellant (2)

Iowa Code § 96.5(1)j – Voluntary Quit Temporary Employment Firm

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 3, 2010 determination (reference 06) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing and his daughter testified on the claimant's behalf. Holly Carter, an unemployment specialist, appeared on the employer's behalf. Ike Rocha interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment by failing to notify the employer within three days of completing a job assignment?

FINDINGS OF FACT:

On August 25, 2008, the claimant registered to work for the employer, a temporary staffing firm. After he registered, the claimant signed a form entitled Assignment Policy that informed him he must contact the employer for another job assignment within three days of completing a job assignment. The employer assigned the claimant, the claimant's daughter and son to job at Ag Sources on September 20, 2010. The claimant, his daughter and son completed this assignment on November 3, 2010. The claimant understood that when an assignment was completed, he was to contact the employer to find out if the employer had another job to assign him.

After the claimant, his daughter and son learned the job at Ag Sources had been completed, the claimant's daughter, on the claimant's behalf, called the employer that same day. The claimant's daughter always interpreted for the claimant or calls on his behalf because of his limited English. She talked to Diane and learned the employer did not have another job to assign to any of them at that time. The employer's records indicate the claimant's daughter did not contact the employer's representative, Diane, until November 24 to ask about another job.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. 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 that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5(1)j.

Even though the employer's records indicated the claimant's daughter did not contact the employer until November 24 to ask about another job for her father, the claimant and his daughter's testimony is credible. The employer's reliance on information from a witness who did not participate in the hearing amounts to hearsay information that cannot be given as much weight as the credible testimony of the claimant and his daughter. The evidence establishes the claimant's daughter contacted the employer the same day they learned the job assignment had been completed. When the claimant's daughter talked to Diane, she learned the employer did not have another job to assign to any of them on that day.

The law does not require a claimant to maintain contact with a temporary employment firm after informing the temporary employment firm that the job assignment has been completed. For unemployment insurance purposes, the reason for the claimant's unemployment qualifies him to receive benefits as of November 7, 2010.

DECISION:

The representative's December 3, 2010 determination (reference 06) is reversed. The claimant did not voluntarily quit his employment. Instead, his daughter on his behalf, contacted the employer the same day the claimant learned the job assignment had been completed. The claimant's employment separation qualifies him to receive benefits as of November 7, 2010.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs