

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MEGAN R SHEEDER
60948 DAYTON RD
ATLANTIC IA 50022

ADVANCE SERVICES INC
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 05A-UI-00323-CT
OC: 02/08/04 R: 01
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

Megan Sheeder filed an appeal from a representative's decision dated January 6, 2005, reference 02, which denied benefits based on her separation from Advance Services, Inc. After due notice was issued, a hearing was held by telephone on January 27, 2005. Ms. Sheeder participated personally. The employer participated by Mandy Henderson, Account Coordinator, and Mindy Shackelford, Human Resources. The employer was represented by Roxanne Bekaert, Attorney at Law. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Advance Services, Inc. is a temporary placement firm through which Ms. Sheeder worked beginning July 19, 2004. She was assigned to work at Glacier, an assignment that could have resulted in permanent employment with Glacier. She filed an additional claim for job insurance benefits after she was laid off from the assignment on December 7, 2004. Her supervisor at Glacier had indicated that she might be recalled to the assignment. Ms. Sheeder did not seek to have Advance Services, Inc. place her in other work during the layoff. She returned to Glacier on January 10, 2005.

On February 26, 2004, Ms. Sheeder signed a document entitled "Policies and Procedures." The two-page document contains information on the employer's policies regarding injuries, paychecks, employee conduct, substance abuse, and drug testing. It also contains the employer's assignment policy which advises that employees are to make contact within three days after an assignment ends.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Sheeder was separated from employment on December 7, 2004 for any disqualifying reason. She had completed her temporary assignment with Glacier at that point. Employees of temporary placement firms are required to seek reassignment at the conclusion of an assignment, but only if the notice required by Iowa Code section 96.5(1)j has been provided.

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 statute requires that the temporary employment firm provide the employee with notice that she has to seek reassignment within three working days following the end of an assignment. The document signed by Ms. Sheeder states "three days" rather than "three working days." However, the administrative law judge does not consider this a fatal flaw. The statute also requires that the document containing such notice be separate from any contract of employment. The administrative law judge interprets this to mean that the three-day notice requirement may not be contained in a document which addresses other terms and conditions of the employment. This provision is apparently of sufficient significance to warrant requiring a separate document. It was possibly intended to prevent the information from being lost in the myriad of other information provided to a new employee at the time of hire. For the reasons stated herein, the administrative law judge concludes that the notice Advance Services, Inc. provided Ms. Sheeder does not satisfy the requirements of section 96.5(1)j. Therefore, it cannot serve as a basis for disqualification from benefits.

DECISION:

The representative's decision dated January 6, 2005, reference 02, is hereby reversed. Ms. Sheeder was separated from employment on December 7, 2004 for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/sc