

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN KRAFT
Claimant

APPEAL NO: 15A-UI-06823-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 09/28/15
Claimant: Respondent (4)

Iowa Code section 96.5(1)j – Voluntary Leaving (Temporary Assignment)
871 IAC 24.25 (38) – Voluntary Leaving with a Notice Period

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 11, 2015, 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 July 21, 2015. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Michael Payne, Risk Manager and Jenna McClaren, Human Resources Coordinator, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment and gave the employer a two-week notice period.

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 from November 12, 2014 to May 26, 2015. He was last assigned at Shine Brothers Corporation from May 4, 2015, to May 26, 2015.

On May 26, 2015, the client called the employer and said it was concerned because it heard from the claimant's supervisor that he told his peers he had another job that would begin June 11, 2015. The employer told the client he would find out what the situation was and let it

know. Jenna McClaren, Human Resources Coordinator, met with the claimant and he said he had another job and planned to give his two week notice. Because the claimant had another job scheduled to start June 11, 2015, the employer ended the claimant's assignment as it feared he would recruit other employees away from the temporary assignment and consequently it did not allow him to finish his two week notice period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was separated from his employment without good cause attributable to the employer but did provide the employer with a two-week notice period.

Iowa Admin. Code r. 871-24.25(38) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

While the claimant intended to leave his employment, he also planned to provide the employer with a two-week notice period. When the employer learned he was planning to leave, it terminated his employment. Under those circumstances, the administrative law judge must conclude the claimant's separation was the result of his decision to accept other employment and the employer's subsequent decision not to allow him to complete his two-week notice period. Therefore benefits are allowed for the two weeks ending June 6, 2015.

The issue of whether the claimant sought reassignment from the employer is moot as the employer terminated the claimant's employment and was aware he was not seeking another assignment because he had another job waiting for him at the conclusion of his two-week notice period with the employer.

DECISION:

The June 11, 2015, reference 02, decision is modified in favor of the employer. The claimant's separation was due to the employer's decision to terminate the claimant's employment upon learning he planned to give his two-week notice and accept other employment. Benefits are allowed for the two weeks ending June 6, 2015, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/mak