

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW L HALL

Claimant

APPEAL NO. 06A-UI-11058-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

**OC: 09/24/06 R: 02
Claimant: Respondent (1)**

Section 96.5-1-j – Voluntary Quit – Temporary Employment

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed a representative's November 1, 2006 decision (reference 02) that concluded Matthew L. Hall (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 4, 2006. The claimant participated in the hearing. Tracy Davis, the office manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

For unemployment insurance purposes, did the claimant voluntarily quit an assignment or was he on a layoff?

FINDINGS OF FACT:

The employer is a staffing agency. The claimant registered to work for the employer's clients in September 2005. The employer assigned the claimant to a job at Cardinal on January 9, 2006. The job was located 15 miles from the claimant's residence.

After the claimant finished his shift on September 22, 2006, his Cardinal supervisor told him he was being laid off because there was no work for him to do. The claimant contacted the employer on Monday, September 25, and advised Davis that Cardinal had laid him off from work. During this conversation, the employer did not talk about assigning the claimant to another job.

When the claimant picked up his paycheck on Friday, September 29, the employer told him there may be a job in Creston, but Creston was probably too far for him to work. Creston is 45 miles from the claimant's residence. The claimant established a clam for unemployment insurance benefits during the week of September 24, 2006. The claimant was called back to work at Cardinal on November 14, 2006. The claimant returned to work at Cardinal.

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, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. 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. The intended purpose of this law is to put the employer on notice that a claimant has completed a job assignment or has been laid off from a job assignment so the employer can assign the claimant to another job. The claimant satisfied the requirements of the law when he contacted the employer on September 25. On that day, if the employer had another job to assign the claimant, it is presumed the employer would have told the claimant about the job at that time. Even when the claimant picked up his check on September 29 and specifically asked about another job, the employer only told him there was the possibility of another job, but it was in Creston and probably too far away for the claimant. The claimant is not disqualified from receiving benefits under Iowa Code § 96.5-1-j.

A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for seasonal employment. 871 IAC 24.1(113). The facts show that Cardinal laid off the claimant during a slowdown. The employer called the claimant back to work at Cardinal on November 14, 2006. Based on these facts, the claimant is not disqualified from receiving unemployment insurance benefits. As of September 24, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 1, 2006 decision (reference 02) is affirmed. The reasons for the claimant's unemployed status as of September 24, 2006 are for nondisqualifying reasons. Therefore, as of September 24, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css