

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARCO A GARCIA**  
Claimant

**APPEAL NO: 12A-UI-14560-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 11/04/12**

**Claimant: Respondent (1)**

Section 96.5-1-j – Temporary Employment  
871 IAC 24.26(15) – Temporary Employment

**STATEMENT OF THE CASE:**

Advance Services, Inc. (employer) appealed a representative's December 6, 2012 decision (reference 01) that concluded Marco A. Garcia (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 16, 2013. The claimant participated in the hearing. Michael Payne appeared on the employer's behalf. Blanca Jadow served as interpreter. 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:**

Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on August 30, 2010. His most recent assignment prior to the issuance of the representative's decision began on August 21, 2012. He worked full time as an agricultural general laborer at the employer's Lone Tree, Iowa business client through October 25, 2012. The assignment ended that date because the business client deemed the assignment to be completed. The employer asserted that the claimant did not separately contact the employer within three days of the end of the assignment to seek reassignment as required by the employer's policies to avoid being considered to be a voluntary quit.

However, throughout the assignment the claimant had been speaking to the two representatives of the employer who were onsite, inquiring of them as to the potential of further work once the assignment was over. Most recently the claimant had made this inquiry of one of the employer's representative's on October 26; the representative indicated to him only that they would "keep him in mind" as far as any additional work.

**REASONING AND CONCLUSIONS OF LAW:**

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j; 871 IAC 24.26(15). The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed. The claimant did speak to the employer about continuing work and was at least implicitly told that there was no other work available for him. He reasonably relied on this assertion by the employer to conclude he had done what he needed to do to seek reassignment; he substantially complied with the statutory requirement. The claimant is not required by the statute to remain in regular periodic contact with the employer in order to remain "able and available" for work for purposes of unemployment insurance benefit eligibility. Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

**DECISION:**

The representative's December 6, 2012 decision (reference 01) is affirmed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs