

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

OMASAN B MACARTHY
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 16A-UI-06869-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/22/16
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the June 15, 2016, (reference 03) unemployment insurance decision that denied benefits based upon his voluntary quit from employment by failing to notify the temporary employment firm within three working days of the completion of his last work assignment. The parties were properly notified of the hearing. A telephone hearing was held on July 8, 2016. The claimant, Omasan B. Macarthy, participated personally. The employer, Advance Services Inc., participated through Risk Manager Steve Volle. Employer's Exhibits 1 and 2 were admitted.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Did the claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment?
Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a temporary employment firm. Claimant began his employment on March 14, 2016. Claimant's job assignment was at Cardinal Glass. He worked as a production worker. His job duties included inspecting products, driving a forklift and prepared packages to be shipped. His hours were 11:00 p.m. to 7:00 a.m. Mondays through Fridays of each week.

On March 14, 2016 the claimant completed paperwork with the employer, including signing the employer's End of Assignment Policy. See Exhibit 2. This policy clearly stated that claimant understood that it was his responsibility to contact the employer within three working days after his assignment ends to request further assignment or he will be considered to have voluntarily quit. See Exhibit 2.

Claimant was not able to work his scheduled shift on May 4, 2016. He called in and reported his absence prior to his scheduled shift start time. He was unable to work due to illness. The following day claimant was notified by the employer that the client had requested his job assignment to end. No specific reason was given by Cardinal Glass as to why they were ending claimant's job assignment. Renne Hoyt, who is the Office Manager for the employer, telephoned claimant on May 5, 2016 and notified him that his job assignment had ended and he was not to report to work again. Claimant asked Ms. Hoyt during this telephone conversation whether or not there were further job assignments for him and she told him that there was no further work available to claimant at that time.

Claimant had five absences during his job assignment with Cardinal Glass. Each of these absences were due to illness and were properly reported to both the employer and Cardinal Glass prior to his scheduled shift start time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was with good cause attributable to the employer. Benefits are allowed.

Iowa Code § 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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since he contacted the employer within three working days of the notification of the end of the assignment, in fact the same day it ended, and requested reassignment, and there was no work available, no disqualification is imposed.

As such, the claimant complied with Iowa Code section 96.5(1)j and he did not voluntarily quit without good cause attributable to the employer. The employer has failed to establish that the claimant was discharged for job-related misconduct which would disqualify him from receiving benefits. The separation is not disqualifying. Benefits are allowed.

DECISION:

The June 15, 2016, (reference 03) unemployment insurance decision is reversed. The claimant's separation from employment was not disqualifying. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/pjs