

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAFAEL VILLELA
Claimant

APPEAL NO. 12A-UI-14128-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 10/07/12
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated November 21, 2012, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on January 3, 2013. The claimant participated personally. Participating on behalf of the claimant was Mr. Justin Gross, Attorney, Iowa Legal Aid. The employer participated by Mr. Michael Payne, Loss Prevention Specialist. Employer's Exhibits One and Two were received into evidence.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Rafael Villela began employment with Advance Services Inc. on August 28, 2006. Mr. Villela's last assignment through Advance Services Inc. began on August 21, 2012 and ended on September 20, 2012. The last assignment was with the Syngenta Company as a corn harvest worker. Mr. Villela was paid by the hour. His immediate contact person with Advance Services was Mr. Howard Hughes.

On September 20, 2012 Mr. Villela was informed by a representative of Advance Services that the assignment at Syngenta had ended. Mr. Villela at that time spoke to Mr. Hughes about additional work and was told that he was eligible to be rehired for the next corn harvest with Syngenta. Since initially being employed by Advance Services, Mr. Villela had signed a number of documents and variations of documents regarding his employment. The most recent agreement signed by Mr. Villela was part of a general policy and procedure agreement instructing the claimant to report to Advance Services within three days after his most recent assignment ended. (See Exhibit Two).

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

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.

871 IAC 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 work at the conclusion of a temporary assignment. In this case the claimant had notice of the claimant's availability because they notified him of the end of the assignment. There is no evidence that the employer provided the claimant a written copy of the reporting policy and the employer did not submit a copy of the reporting agreement for the hearing. The claimant's recollection that he did not receive notice of the reporting policy or agreed to it is credible.

DECISION:

The representative's decision dated November 21, 2012, reference 01, is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about his availability as required by the statute. Benefits are allowed, providing the claimant is otherwise eligible

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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