

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TIMMY L ADAMS
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 14A-UI-11472-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/12/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving
Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Assignment)

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 30, 2014, (reference 03) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 25, 2014. Claimant participated. Employer participated through (representative) Steve Volle, Risk Manager; and Jim Stein, Office Manager. Employer's Exhibit One was entered and received into the record.

ISSUES:

Did the claimant voluntarily quit his employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at Fimco full-time as an assembler beginning on March 14, 2014 through April 19, 2014 when he was considered a voluntary quit after he stopped showing up for work and did not contact the employer again. Continued work was available for the claimant if he had not quit. The claimant had been given the employer's policies found in Employer's Exhibit One.

The claimant never reported any type of work-related injury to either this employer or to Fimco. On July 24 the employer received a call from St. Luke's Hospital inquiring why the claimant's bill for services for his alleged workers' compensation injury had not been paid. This was the first the employer learned of any alleged injury. Mr. Stein called the claimant on July 24 and the claimant specifically told Mr. Stein that he had not been to any hospital for years and that he had not sustained any work-related injury while working for Fimco. Mr. Stein also contacted the supervisor at Fimco, Steve Lockmiller, who told him that the claimant never reported any type of injury to a Fimco employee or manager. The claimant is not credible in his testimony that he sustained any injury while at Fimco. The employer's records kept in the regular course of business document that the claimant never reported any type of injury nor did he seek any type of reassignment from the employer until months after he was considered a voluntary quit for

being a no-call no-show for work. The employer and their records kept in the regular course of business offer a more credible version of events. The claimant simply stopped showing up for work after April 19, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

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. 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.

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 work at the conclusion of each temporary assignment so they may be reassigned and continue working. In this case, the claimant gave the employer no notice of his availability and, therefore, is considered to have quit the employment.

Additionally, this case could be considered that the claimant voluntarily left employment without good cause attributable to the employer as he was clearly a three day no-call no-show for work.

Iowa Code § 96.5-1 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.

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are denied.

DECISION:

The October 30, 2014 (reference 03) decision is affirmed. The claimant voluntarily quit his employment without good cause attributable to the employer. Benefits are denied until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs