

BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

LINDA L LVEA

Claimant

and

ADVANCE SERVICES INC

Employer

HEARING NUMBER: 20BUI-03748

EMPLOYMENT APPEAL BOARD
DECISION

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-1-J

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Linda Lvea, worked for Advance Services, Inc. (Employer) beginning October 1, 2019. At the start of her employment, the Claimant went through orientation at which time she was provided with a physical, individual copy of its 'assignment' policy, i.e., all employees must contact the Employer within three days of an assignment's end (Exhibit 1). The Claimant's first assignment began October 14th with Global Filters.

On January 2, 2020, the Claimant was assigned to Cedar Crest Manufacturing (Client) starting as a full-time customer service representative (CSR). On March 20, 2020, the Client supervisor, Sue Kazimour, contacted the Claimant to inform her she was no longer needed for that position. They also informed her they wanted the Claimant to return once the position became available. A few hours later, Tammy Rundle (Manager at Advance Services) contacted the Claimant to see if she'd heard the news from the Client. The Employer asked the Claimant if she wanted to start a new assignment, or if she preferred to wait until Cedar Crest called her back to work. The Claimant opted

to wait for Cedar Crest, as she enjoyed her employment experience there. The Claimant did not request additional assignment.

The following week, on or about March 27, 2020, the Claimant observed a news report indicating school was cancelled due to COVID. She decided she would not look for work because she needed to stay home with her school-aged children. There was no further contact between the parties until May 5, 2020 when Ms. Rundle contacted the Claimant about unemployment benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *Voluntary Quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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.

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Employer's version of events. In the instant case, both parties agree the Claimant was provided with a stand-alone copy of the Employer's notification policy. Notification was satisfied when the Claimant spoke with Ms. Rundle who wanted to verify Cedar Crest's contact about the assignment's end on March 20, 2020. As for the "...and seeks reassignment..." prong set forth in the statute, the Claimant did not fulfill this requirement. In fact, she specifically indicated she would forego reassignment in order to be available should Cedar Crest contact her once her former position opened up. The Employer had no reason to offer or discuss other assignments based on their conversation. Based on the facts of this case, the Claimant is deemed to have voluntarily quit within the meaning of the aforementioned statute.

DECISION:

The administrative law judge's decision dated July 6, 2020 is **REVERSED**. The Employment Appeal Board concludes that the Claimant voluntarily quit her employment without good cause attributable to the Employer. Accordingly, she is denied benefits until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise

eligible. See, Iowa Code section 96.5(1)"g".

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Lastly, the majority Board members would point out to the Claimant that although the Claimant is denied benefits under state unemployment law, **this does not bar receipt of certain special pandemic related benefits**. In fact, being ineligible from state unemployment benefits is a prerequisite to some of these benefits. Of particular interest to the Claimant is Pandemic Unemployment Assistance [PUA]. That law provides benefits to persons who are unavailable for work due to certain pandemic related reasons. Such persons may be able to collect PUA during any week this situation persists, going back to February 8, 2020 (for a maximum of 39 weeks). The federal Department of Labor has instructed that **eligible persons would include**:

A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work.

UIPL 16-20, Attachment 1, p. I-4

(https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Attachment_1.pdf).

It is further our understanding that federal law requires all PUA claims to be backdated to as early as February 8, depending on when the applicant's CVOID-related unavailability began. The upshot is that if Claimant can make the necessary PUA showing Claimant may very well be eligible for PUA for any week daycare was unavailable, and so is well-advised to pursue this avenue of federal benefits through Iowa Workforce. **Our ruling today is no bar to PUA.**

Should the Claimant wish to apply for PUA, and the information on how to do so if found at:

<https://www.iowaworkforcedevelopment.gov/pua-information>

Ashley R. Koopmans

Myron R. Linn

DISSENTING OPINION OF JAMES M. STROHMAN:

I respectfully dissent from the decision of the Employment Appeal Board; I would affirm the decision of the administrative law judge in its entirety.

James M. Strohman

AMG/fnv