IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

Appeal Number: 05A-UI-05817-DWT
OC: 04/17/05   R: 01
Claimant: Appellant (2)

JONI L ODELL
PO BOX 51
RIVERTON IA 51650

ADVANCE SERVICES INC
C/O **TALX UCM SERVICES INC**
PO BOX 66864
ST LOUIS MO 64166 6864

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the *Employment Appeal Board, 4th Floor— Lucas Building, Des Moines, Iowa 50319*.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY
1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Joni L. Odell (claimant) appealed a representative's May 19, 2005 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Advance Services, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 16, 2005. The claimant participated in the hearing. Sheila Cuykendall, the human resource manager, appeared on the employer's behalf. 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:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant registered to work for the employer in November 2004. The employer assigned her to a job at a popcorn factory that the claimant started on December 6, 2004. The claimant does have a driver's license and rode ten miles to work with a co-worker. Business at the popcorn factory slowed down and the claimant's job assignment ended.

The employer informed the claimant on April 19 her assignment at the popcorn factory had been completed. On April 19, the employer left a message for the claimant about another job in Auburn, Nebraska, which is at least 30 miles from the claimant's residence. Since the claimant did not have a way to get to this assignment, she declined this job offer.

The business where the claimant worked from December 6, 2004 to April 19, 2005, called her back to work on May 9, 2005. The clamant was too sick to work the three days she was scheduled to work during this week. The claimant returned to work at the popcorn factory during the week of May 15, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. The facts establish the claimant completed the job assignment at the popcorn factory on April 19, 2005, because business at the popcorn factory was slow. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for seasonal employment. 871 IAC 24.1(113). Since the claimant was called back to work when business at the popcorn factory picked up, she was on a layoff as of April 20, 2005.

An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if she fails to notify the employer. Iowa Code §96.5-1-j. The claimant contacted the employer on April 20, 2005. Therefore, this section of the law has been satisfied. The claimant is qualified to receive unemployment insurance benefits as of April 17, 2005.

The employer wanted to recall the claimant back to work at the popcorn factory the week of May 8, 2005. The claimant was too sick the three days she could have worked this week. As a result, the claimant is not eligible to receive benefits for the week of May 8, 2005.

DECISION:

The representative's May 19, 2005 decision (reference 02) is reversed. The claimant completed a job assignment on April 19 and talked to the employer the next day, April 20, 2005. As of April 20, 2005, the claimant was on a temporary layoff. Therefore, as of April 17, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant. The claimant is not eligible to receive benefits for the week of May 8, 2005, because she was ill and unable to work this week.

dlw/tjc