

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

VONJAYA S MITCHELL
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 20A-UI-08813-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Temporary Employment Firm

STATEMENT OF THE CASE:

On July 31, 2020, the claimant filed an appeal from the July 24, 2020, (reference 02) unemployment insurance decision that denied benefits based on failure to request another job assignment. The parties were properly notified about the hearing. A telephone hearing was held on September 9, 2020. Claimant participated. Employer participated through Melissa Lewien, Risk Manager. Exhibits A and B were admitted into the record.

ISSUES:

Did claimant voluntarily quit her employment?
Did claimant fail to contact her employer and ask for a reassignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 28, 2019. Claimant last worked as a full-time laborer. Claimant was separated from employment on November 8, 2019, when her work assignment ended. Claimant was employed by Advance Services Inc. and placed to work at a Pioneer seed corn plant for a seasonal assignment sorting corn. Claimant signed and received a copy of the Advance Services, Inc. End of Assignment Policy on August 7, 2019. (Ex. A, p. 3) The document stated that the employee is required to ask for a new assignment after the end of an assignment within three days and if no request is made the employee will be considered to have voluntarily quit. Claimant was told on November 8, 2020 her assignment at Pioneer was over. Claimant told her employer that she was going to move. Claimant did not ask for a new assignment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

The Iowa Supreme Court affirmed the denial of unemployment benefits to a claimant who failed to call her temporary employment firm within three days of the end of her assignment. *Sladek v. Employment Appeal Bd.*, 939 N.W.2d 632, (Iowa 2020).

The court held: "The purpose of [Iowa Code section 96.5(1)(j)] 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." *Sladek v. Employment Appeal Bd.*, 939 N.W.2d 632, 637 (Iowa 2020).

Claimant was hired by a temporary employment firm and assigned to a seasonal job. The claimant did not ask for a reassignment. Under the above law claimant is deemed to have voluntarily quit her unemployment. Claimant has not shown good cause for not asking for a new assignment.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The July 24, 2020, (reference 02) unemployment insurance decision is affirmed. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided claimant is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though claimant is not eligible for regular unemployment insurance benefits under state law, claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. This decision does not address when claimant is eligible for PUA. For a decision on such eligibility, claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

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



James F. Elliott
Administrative Law Judge

September 11, 2020
Decision Dated and Mailed

je/sam