

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL BUTTERFIELD

Claimant

APPEAL NO: 14A-UI-03760-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 03/02/14

Claimant: Respondent (1)

Section 96.5(1) – Voluntary Leaving
871 IAC 24.26(19 & 22) – Voluntary Leaving
Section 96.5-1-j – Reassignment from Employer

STATEMENT OF CASE:

The employer filed a timely appeal from the April 7, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 29, 2014. The claimant participated in the hearing. Michael Payne, Risk Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left his employment and whether he sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time general laborer for Advance Services last assigned to Heinz from October 17, 2013 to November 18, 2013. The claimant's assignment ended due to the client determining the claimant was not a good fit with the company. Either the day the claimant was notified by the client or the day after he contacted the employer to inform it of the end of the assignment and asked if there was any further work available as required by the employer's end of assignment policy (Employer's Exhibit Two). The employer told him it did not have other work at that time. The claimant did not contact the employer again.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not disqualifying.

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 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.

The claimant completed the assignment at Heinz and although his testimony was not particularly credible, he did ask the employer within three days of the end of that assignment for additional work. Because the employer's testimony was second hand and thus slightly outweighed by the claimant's first hand testimony, the administrative law judge has no choice but to find he met the requirement of the employer's policy and the law. With that being said, however, the claimant's notion that the employer should continuously call him with work rather than him contacting the employer is misguided at best. The employer has hundreds of employees. The claimant only need concern himself with himself and it is much more

reasonable to expect the claimant to contact the employer for further work if he truly wants another assignment. The claimant has not done so and even though he may have met the minimum requirements of the employer, he has not met the spirit of the law or taken any steps with this employer to secure further work. Because he testified he called the employer within three days of the completion of his assignment, however, benefits must be allowed.

DECISION:

The April 7, 2014, reference 01, decision is affirmed. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs