

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JILL C TONER**  
Claimant

**APPEAL NO. 16A-UI-11763-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 10/09/16**  
**Claimant: Appellant (2)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

Jill Toner filed a timely appeal from the October 27, 2016, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on an agency conclusion that Ms. Toner had voluntarily quit on October 7, 2016, by failing to contact the employer within three days of completing an assignment. After due notice was issued, a hearing was held on November 15, 2016. Ms. Toner participated. Melissa Lewien, Risk Management, represented the employer. Exhibits D, E and F were received into evidence. The administrative law judge took official notice of the fact-finding materials and marked the employer's End of Assignment Policy as Department Exhibit D-1. The administrative law judge took official notice of Workforce Development's record of Ms. Toner's wages (WAGEA).

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Advance Services, Inc. (ASI) is a temporary employment agency. Jill Toner performed work for ASI in one, full-time temporary work assignment. The assignment was at a Pioneer plant in Toledo, Iowa. The assignment began during the latter part of August 2016 and ended on October 6, 2016 when Ms. Toner completed the assignment. Though Ms. Toner had assisted Pioneer with its harvest activities during several years, the August 2016 assignment was the first time Ms. Toner had performed work at Pioneer as an ASI employee. Before Ms. Toner started work in the assignment, she went through an application and orientation process. As part of that

onboarding process, ASI representatives had Ms. Toner sign several documents. The documents included a document that contained just two policies. One of the policies set forth on the document was the ASI End of Assignment Policy. The policy stated as follows:

I understand that it is my responsibility to contact Advance Services, Inc. within three working days after my assignment ends to request further assignment or I will be considered to have voluntarily quit. Failure to do so could affect my eligibility for unemployment insurance benefits.

I have read these policies and I understand the ramifications of my actions as stated in these policies. I received a copy of these policies for my records.

Ms. Toner signed her acknowledgement of the above policy statement on August 16, 2016 without first reading the policy statement. Ms. Toner did not receive a copy of the document for her records.

After completing the Pioneer assignment on October 6, 2016, Ms. Toner did not ask ASI for another assignment. Ms. Toner made contact with ASI on October 7, 2016 for the purpose of addressing problems with receiving appropriate pay for the work she had performed. Neither the ASI representative nor Ms. Toner brought the topic of additional work assignments.

#### **REASONING AND CONCLUSIONS OF LAW:**

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. (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(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 evidence in the record establishes an October 6, 2016 separation that was for good cause attributable to the temporary employment agency. Though the employer's End of Assignment Policy statement complies with the statutory requirements, the weight of the evidence in the record establishes that ASI did not in fact provide Ms. Toner with a copy of the policy statement she had signed. Ms. Toner testified candidly and clearly she did not receive a copy of the documents she signed in connection with starting the assignment. The employer elected not to present testimony from persons with firsthand, personal knowledge of the matter and failed to present sufficient evidence to rebut Ms. Toner's assertion that she did not receive a copy of the policy. Because Ms. Toner did not receive a copy of the policy, the employer did not satisfy the notice requirement set forth in the statute. Ms. Toner fulfilled the contract of hire by completing the assignment at Pioneer. Ms. Toner was under no obligation to seek further work through the employer after completion of the assignment. Ms. Toner is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The October 27, 2016, reference 01, decision is reversed. The claimant's October 2016 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/pjs