

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GUADALUPE F HUERTA**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 17A-UI-09508-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/20/17  
Claimant: Respondent (1)**

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Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the September 12, 2017, (reference 01) unemployment insurance decision that allowed benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on October 3, 2017. Claimant participated personally and through Spanish Interpreter 10660 with CTS Language Link. Employer participated through risk manager Melissa Lewien and human resource coordinator Marie Toebe.

**ISSUES:**

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?  
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?  
Can charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a temporary staffing firm. Claimant was last assigned to work as a full-time general laborer at Jack Links Beef from March 8, 2017, through August 23, 2017, when the assignment ended.

Employer has a policy requiring employees to request another assignment within three working days of an assignment ending. The policy informs employees they will be considered to have voluntarily resigned if they do not comply with the policy. The employer provides a copy of the policy to employees during orientation. Employer offers orientation paperwork to employees in English and Spanish. Claimant chose to complete her orientation paperwork in English, and had her English speaking daughter present with her to translate. Claimant signed a document stating she received and understood the policy.

Human resource coordinator Marie Toebe called claimant on August 23, 2017, and informed her that the Jack Links assignment was ending because business was slow. Claimant's daughter was with her and interpreted the conversation.

On Friday, August 25, 2017, claimant went into employer's office with her daughter and spoke again to Toebe. Claimant asked when work would pick up again at Jack Links. Toebe said she did not know. Claimant asked Toebe to call her when work picked up at Jack Links. Claimant informed Toebe she was going to file for unemployment insurance benefits.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

Iowa Code section 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.

Iowa Admin. Code 871—24.26(15) provides:

The following are reasons for a claimant leaving employment with good cause attributable to the employer:

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 had 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 accepted means of communications. Working days means the normal days in which the employer is open for business.

In this case, claimant personally went to employer's place of business within three working days of the assignment ending and spoke to employer about returning to work. Claimant requested to be returned to work at her previous assignment. Employer indicated that was not possible as work was slow at that time and claimant stated she would then need to file for unemployment insurance benefits. Although claimant did not specifically ask for an assignment working for a *different* client, a reasonable person would have come away from the conversation realizing that claimant was willing, able, and available to work.

Claimant complied with the policy by notifying employer she was seeking work within three days of an assignment ending. Her separation is attributable to employer.

Because claimant is qualified to receive benefits, the issues regarding overpayment of benefits are moot and will not be discussed further in this decision.

**DECISION:**

The September 12, 2017 (reference01) decision is affirmed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

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