

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOLORES CORNEJO

Claimant

APPEAL NO: 14A-UI-13336-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 11/02/14

Claimant: Respondent (1)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(15) – Temporary Employment

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed a representative's December 22, 2014 (reference 03) decision that concluded Dolores Cornejo (claimant) was qualified to receive unemployment insurance benefits after a separation from employment from Advance Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 3, 2015. The claimant participated in the hearing. Michael Payne appeared on the employer's behalf and presented testimony from one other witness, Cami Mills. Ike Rocha served as interpreter. During the hearing, Employer's Exhibits One and Two were entered into evidence. 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:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant's only assignments through the employer to date began on July 14, 2014. She worked full time as a general laborer at the employer's business client through December 21, 2014. The assignment ended that date because the business client deemed the assignment to be completed. The business client informed the employer of the completion of the assignment on that date. The claimant did not separately contact the employer within three days of the end of the assignment to seek reassignment as required by the employer's policies to avoid being considered to be a voluntary quit.

On July 2 and September 15, 2014 the claimant signed documents which included a reference to the employer's policy on seeking reassignment. However, the documents were in English; the claimant does not read or write English and the documents were not otherwise read to her. On October 21 the employer's on-site human resources coordinator met with a group of 16 to 20 temporary employees at the business client's site, including the claimant, and had an

interpreter inform the group that their assignment was ended. Mills believed that the interpreter had instructed the group that they were to contact the employer's office within three days if they wanted to seek further assignment but the claimant testified that the interpreter only told the group that there was not any further work available and said nothing about contacting the employer's office for other assignments.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j; Rule 871 IAC 24.26(19).

The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. The claimant was not meaningfully informed of the requirement; she reasonably understood that the employer had no further work for her as of October 21 so that there was no reason to request an additional assignment with the employer.

Regardless of whether the claimant continued to seek a new assignment, the separation itself is deemed to be completion of temporary assignment and not a voluntary leaving; a refusal of an offer of a new assignment would be a separate potentially disqualifying issue. Benefits are allowed, if the claimant is otherwise eligible.

The administrative law judge observes that the claimant is not currently otherwise eligible, due to a disqualification decision issued on January 7, 2015 by another administrative law judge in Appeal No. 14A-UI-12644-NT regarding the claimant's employment with ABM Ltd.

DECISION:

The representative's December 22, 2014 (reference 03) decision is affirmed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant would be qualified to receive unemployment insurance benefits, if she was otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/can