

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUIS DIAZ TORRES

Claimant

APPEAL NO: 12A-UI-03011-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 01/29/12

Claimant: Appellant (1)

Iowa Code § 96.5(1)j – Completion of an Assignment with a Temporary Staffing Firm

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 16, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Michel Payne, an unemployment insurance specialist, appeared on the employer's behalf. Ike Rocha interpreted the hearing. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits, or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant registered to work with the employer on August 23, 2011. Before the employer assigned the claimant to a job, R., an employee who speaks Spanish, told the claimant that when he completed a job assignment, he had to contact the employer within three working days for another assignment. If he did not do this, his unemployment insurance benefits could be jeopardized. (Employer Exhibit One.) The employer's policies are in English and Spanish. The claimant could take either policy with him. The employer assigned the claimant to a long-term assignment at Siouxland Galvanizing on August 23, 2011.

When the claimant worked at this assignment, he understood his supervisor was satisfied with his work performance. No one told him about any problems. On January 31, his Siouxland Galvanizing supervisor told him his assignment was over because the client did not have any more work for the claimant to do.

The claimant believes he contacted the employer within a week for another job assignment. The employer's records indicate the claimant did not contact the employer until February 16, 2012. The claimant always talks to R., who speaks Spanish. She told him on February 16 that the employer did not have any work to assign to him.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5(1)j.

The evidence establishes that when the claimant registered to work, R. told him about contacting the employer within three days of completing a job assignment. Even though the employer asserted the claimant had been dismissed from the job assignment early because the employer was not satisfied with his work performance, the claimant understood he finished the assignment because there was no more work for him to do. Since the evidence does not establish the claimant received any warnings for poor job performance, the claimant's testimony is considered more credible than the employer's on this point.

Even though the claimant contacted the employer by February 16, he received information in August 2011 that he was required to contact the employer within three days of completing an assignment or by February 3, 2012. Since the claimant did not contact the employer within three days of completing an assignment, the law disqualifies him from receiving benefits. As of January 29, 2012, the claimant is not qualified to receive benefits.

DECISION:

The representative's March 16, 2012 determination (reference 01) is affirmed. Since the claimant did not contact the employer within three work days of completing an assignment on January 31, 2012, as he was informed to in August 2011, for unemployment insurance purposes the claimant voluntarily quit his employment and is not qualified to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of January 29, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw