

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMUEL LOPEZ
Claimant

APPEAL NO. 09A-UI-03743-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

**Original Claim: 02-01-09
Claimant: Appellant (2)**

Iowa Code Section 96.5-1 – Voluntary Leaving - Layoff
Iowa Code Section 96.5(1)j – Voluntary Leaving (Temporary Employment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 4, 2009, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 2, 2009. The claimant participated in the hearing with witness/brother-in-law Edgar Laguna and Interpreter Ike Rocha. Jacque Finkral, Retention Coordinator, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant was laid off due to a lack of work and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

The claimant was employed as a full-time production laborer for Advance Services last assigned at Shine Brothers from July 28, 2008 to January 30, 2009. The employer notified the claimant he was being laid off due to a lack of work effective January 30, 2009. At the time of hire, the employer gave the claimant a set of policies and procedures and a job assignment sheet that contained his name, his supervisor's name, the hours he was scheduled to work, the phone number, where to park and, at the bottom, a statement that employees must contact the employer when the assignment ends.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work and did not seek reassignment from the employer but was not properly notified he was required to do so.

Iowa Code section 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 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.

The claimant and employer agree the claimant was laid off due to a lack of work. Consequently, the remaining issue is whether the claimant sought reassignment from the employer. The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability, because they notified him of the end of the assignment. There is no evidence the employer provided the claimant with a written copy of the reporting policy on a separate sheet of paper and did not submit such for this hearing. Therefore, benefits are allowed.

DECISION:

The March 4, 2009, reference 03, decision is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about his availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw