

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANNY A GRIFFIOEN
Claimant

APPEAL NO. 06A-UI-10599-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

**OC: 09/10/06 R: 03
Claimant: Respondent (1)**

Section 96.5-1-j – Separation from Temporary Employment

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 19, 2006, reference 08, that concluded the claimant was qualified to receive unemployment insurance benefits. A telephone hearing was held on November 14, 2006. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Tamara Dostart participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked for the employer from May 30, 2006, to September 11, 2006. His last assignment was at Hunter Supply and the assignment started on August 9, 2006. On September 11, 2006, the employer contacted the claimant by phone and left a message for him stating that the assignment at Hunter Supply was finished.

The claimant called the employer on the morning of September 12, 2006, before the employer's office opened and left a message indicating that he was seeking a new job assignment with the employer. On September 14, 2006, the employer telephoned the claimant and left a message that the employer had a possible short-term opening at a book binding business. A couple days later, the claimant came in and informed a staff member that he was going to look for work on his own, which meant he was inactive. In October, the claimant informed the employer that he had secured other employment.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The evidence establishes that the claimant satisfied the legal requirement of Iowa Code § 96.5-1-j because after he was informed by the employer that his job was finished, he contacted the employer by phone within one day and sought another assignment. The unemployment insurance rules provide that claimants employed on a temporary basis are considered to have fulfilled the contract of hire as long as they complete the job assignment and that failing to accept a new assignment is not considered a voluntarily quit employment of employment. The rule provides that the issue of a refusal of work shall be adjudicated when an offer of work was made by the employer. 871 IAC 24.26(19).

Refusal of work, however, was not listed as an issue on the hearing notice. Furthermore, the employer did not protest the claim based on the claimant refusing suitable work or raise the issue in its appeal, and the law requires that to disqualify someone under the refusal of work statute, the offer has to be through a personal contact or via a letter by registered mail. 871 IAC 24.24(1). Under the circumstance, I do not believe it would be proper to remand this matter for adjudication on the suitable work issue. If the employer believes that the claimant has refused a bone fide offer of suitable work, the employer is required to protest the claim in writing to the Unemployment Insurance Services Division on that basis.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated October 19, 2006, reference 08, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw