

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

TOM A MART
1508 – 6TH ST NW
CEDAR RAPIDS IA 52405

ADVANCE SERVICES INC
C/o TALX UCM SERVICES INC
PO BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 04A-UI-07847-BT
OC: 06/06/04 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 871 IAC 24.1(113)a - Separation Due to Layoff

STATEMENT OF THE CASE:

Tom Mart (claimant) appealed an unemployment insurance decision dated July 13, 2004, reference 03, which held that he was not eligible for unemployment insurance benefits because he quit his employment with Advance Services, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 11, 2004. The claimant participated in the hearing. The employer participated through Scott Beal, Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment firm. The claimant was employed full-time from March 8, 2004 through June 11, 2004. He was most recently working as a janitor at Frontier Co-op but voluntarily left that assignment due to back and hip pain from scoliosis. The employer confirmed the claimant quit his assignment but did not quit his employment. The employer has no work available.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. All terminations of employment are generally classified as layoffs, quits, discharges or other separations. 871 IAC 24.1(113)(a). 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 has discharged the claimant for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a.

Although the claimant contends he did not quit his employment, there are sufficient facts for the Administrative Law Judge to find otherwise. However, the employer agrees with the claimant in that he only quit his assignment, not his employment. The claimant continues to be available for work and was told that the employer would call him for additional assignments. Consequently, the claimant's separation can only be considered a lay-off. A layoff does not constitute a voluntary quit or work-connected misconduct. His separation from employment was not due to any misconduct on his part nor did he quit his job. The claimant is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

DECISION:

The unemployment insurance decision dated July 13, 2004, reference 03, is reversed. The claimant is qualified for unemployment insurance benefits, provided he is otherwise eligible.

sdb/kjf