

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON J SMITH
Claimant

APPEAL NO. 12A-UI-14222-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 11/04/12
Claimant: Appellant (2)

Section 96.5-1-j – Contact for Reassignment from Temporary Employer

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated November 29, 2012, reference 01, which denied unemployment insurance finding that the claimant voluntarily quit employment by failing to notify the temporary employment firm within three working days of completion of his last work assignment. After due notice was provided, a telephone hearing was held on January 3, 2013. The claimant participated personally. The employer participated by Mr. Michael Payne, Loss Prevention Specialist.

ISSUE:

At issue is whether the claimant left employment by failing to contact the temporary employment service within three working days for reassignment.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Jason Smith began employment with Advance Services Inc. on March 5, 2012 when Advance Services took over the contract for temporary employees at the NSK Corporation. Mr. Smith was employed at that time by a different temporary agency and continued employment with Advance Services. Mr. Smith signed an agreement to contact the temporary employment service within three working days at the completion of each assignment to notify the temporary employment service of his availability for additional assignments.

On June 1, 2012, Mr. Smith was notified by "Connie," an employee of Advance Services Inc., that the assignment at NSK was ending. Mr. Smith made an inquiry at that time with "Connie" as to whether there were any other assignments available to him with Advance Services Inc., the representative of Advance Services responded that there were not. The claimant then began to seek employment with other perspective employers.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

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.

871 IAC 24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or

refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

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. The evidence in this case establishes that the claimant was notified that the assignment was ended by a representative of Advance Services Inc. and that Mr. Smith made an inquiry at that time seeking additional assignments but was told that none were available. The claimant's separation from employment was therefore attributable to the employer due to lack of work. Benefits are allowed providing that the claimant has met all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated November 9, 2012, reference 01, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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