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

KENNETH D SCHONING
Claimant

APPEAL NO. **11A-UI-09116-PT**

ADMINISTRATIVE LAW JUDGE
DECISION

ADVANCE SERVICES INC
Employer

OC: 06/05/11
Claimant: Respondent (1)

871 IAC 24.26(19) – Voluntary Quit Spot or Casual Labor
Iowa Code § 96.5(1)j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

Employer filed an appeal from the July 8, 2011, reference 01, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on August 2, 2011. The claimant participated.   The employer participated through Holly Carter, Unemployment Specialist. Employer's exhibit 1 was admitted as evidence.

ISSUE:

The issue is whether claimant was voluntarily quit employment without good cause attributable to the employer

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was employed through the employer performing various temporary work from May 17, 2010 through May 16, 2011. The claimant completed this assignment and called the employer to ask if they had additional work but never received a response.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant did not voluntary quit his employment.

Iowa Code § 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 is a temporary employee and is required to notify the temporary agency with three working days of the end of the assignment and of the availability to accept reassignment. In this case, the claimant gave the employer personal notice of his availability. The claimant's testimony is given greater weight on this issue than the employer's hearsay records. Benefits are allowed if otherwise eligible.

DECISION:

The July 8, 2011, reference 01, decision is affirmed. The claimant is eligible to receive unemployment insurance benefits, provided the claimant meets all other eligibility requirements.

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Ron Pohlman
Administrative Law Judge

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Decision Dated and Mailed

rrp/css