

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRUCE G STREETER**  
Claimant

**APPEAL NO. 10A-UI-10504-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 07/22/10**  
**Claimant: Respondent (2R)**

Section 96.5-1 – Voluntary Quit  
Section 96.5-1-J – Separation from Temporary Employment  
Section 96.3-7 – Overpayment of Benefits

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated July 22, 2010, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 14, 2010. Claimant participated. Employer participated by Holly Carter, unemployment specialist. The record consists of the testimony of Holly Carter; the testimony of Bruce Streeter; and Employer's Exhibits 1-3.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a temporary employment agency. The claimant's first assignment with the employer was from June 2, 2009, through June 5, 2009. On June 27, 2009, the claimant accepted an assignment with Dean Foods Co in Le Mars, Iowa. The claimant's assignment ended on February 11, 2010. The claimant informed the employer that he did not want another assignment as he had secured a job at Quality Farm, which started on February 15, 2010. The claimant is still employed at Quality Farm. He was temporarily laid off from that job on June 10, 2010. He returned to work sometime in mid-August 2010. He was last paid unemployment insurance benefits for the week ending August 14, 2010.

On May 11, 2009, the claimant signed a separate form entitled "Assignment Policy", which stated as follows:

I understand that I must report to Advance Services, Inc. within three days after any assignment ends or I will be deemed to have voluntarily terminated my employment with Advance Services Inc."

(Exhibit 2)

## **REASONING AND CONCLUSIONS OF LAW:**

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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The evidence in this case is uncontroverted that the claimant voluntarily left his employment with Advance Services Inc. Although his assignment had ended on February 11, 2010, he had secured another job and specifically informed Advance Services that he did not need another assignment. The claimant had signed a separate form that contained a clear and concise explanation of the notification requirement and the consequences of a failure to notify the employer. The claimant intended to sever the employment relationship and did so by accepting other employment.

The claimant is still employed by Quality Farm, according to his testimony. The period of unemployment for which this claimant is seeking benefits, occurred when the claimant was temporarily laid off by Quality Farm. Although the claimant voluntarily left his job with Advance Services without good cause attributable to that employer, it may be that he is entitled to unemployment insurance benefits as a result of the layoff with Quality Farm. This matter is remanded back to the claims section for further consideration of this issue as well as any overpayment issue.

**DECISION:**

The decision of the representative dated July 22, 2010, reference 02, is reversed. The claimant voluntarily left without good cause attributable to this employer (279311-000). This matter is remanded back to the claims section to determine whether the claimant was temporarily laid off from a subsequent employer as well as any overpayment issue.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/pjs