

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CONSTANCIO N CASAREZ
Claimant

APPEAL NO. 11A-UI-14443-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 10/09/11
Claimant: Appellant (2)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The claimant, Constancio Casarez, filed an appeal from a decision dated November 3, 2011, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 10, 2011. The claimant participated on his own behalf and Patricia Vargas acted as interpreter.

The employer provided a telephone number to the Appeals Section. That number was dialed at 3:04 p.m. and the only response was a voice mail. A message was left indicating the hearing would proceed without the employer's participation unless the witness contacted the Appeals Section prior to the close of the record. By the time the record was closed at 3:20 p.m. the employer had not responded to the message and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Constancio Casarez was employed by Advance Services from August 29 until October 7, 2011. He was assigned to a client company during that time which had an office of the employer on site. Mr. Casarez was notified by the on-site representative on Friday, October 7, 2011, the assignment was at an end. She told him not to report for more work on Monday as the office would be closed due to Columbus Day. He came on Tuesday, October 11, 2011, and spoke with the representative. She told him there was no more work.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant did report back to the employer's on-site office within three working days of the end of his last assignment but there was no work available. He has met the requirements of the above Code section and disqualification may not be imposed.

DECISION:

The representative's decision of November 3, 2011, reference 02, is reversed. Constancio Casarez is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeyer
Administrative Law Judge

Decision Dated and Mailed

bgh/css