

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAREN A CLAASSEN
Claimant

APPEAL NO. 17A-UI-02216-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 01/2917
Claimant: Respondent (1)

Section 96.5-1-j – Separation from Temporary Employer
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Advance Services (employer) appealed a representative's February 22, 2017, decision (reference 02) that concluded Karen Claassen (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 21, 2017. The claimant participated personally and through former co-worker, Tracey Zenor. The employer participated by Melissa Lewien, Risk Manager, and Terri Shepard, Human Resources Coordinator. The employer offered and Exhibit 1 was received into evidence. Exhibit D-1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 service. The claimant performed services off and on from August 21, 2015, through October 7, 2016. She signed a document on August 22, 2016, indicating she was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant was given a copy of the document. The claimant completed her last assignment on October 7, 2016, and sought reassignment from the employer. The only assignment available was a job that required the claimant to climb stairs. The claimant had performed the job the year before and felt she was not physically able to execute the work safely due previous knee surgery.

The claimant filed for unemployment insurance benefits with an effective date of January 29, 2017. The employer participated personally at the fact-finding interview on February 21, 2017, by Melissa Lewien.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was separated from a temporary 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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Under the Iowa Code the employer must advise the claimant of the three day notice requirement and give the claimant a copy of that requirement. The employer followed the requirements of the code. The claimant requested reassignment. No work was available that the claimant could safely perform. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's February 22, 2017, decision (reference 02) is affirmed. The claimant was separated from work from temporary employment. Benefits are allowed, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs