

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THODEN, CRAIG, A
Claimant

APPEAL NO. 12A-UI-10023-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 07/15/12
Claimant: Respondent (1)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Employer filed a timely appeal from the August 15, 2012, reference 01, decision that allowed benefits in connection with a July 20, 2012 separation. After due notice was issued, a hearing was held on September 11, 2012. Michael Payne, Unemployment Insurance Specialist, represented the employer. The claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Exhibits One and Two were received into evidence.

ISSUE:

Whether the claimant's July 20, 2012 separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. In October 2011, the claimant began a full-time temporary work assignment at Syngenta in Belmond. The claimant completed the work assignment on July 20, 2012. On July 30, 2012 the claimant notified the employer that the assignment had ended on July 20 and that he expected to return to Syngenta in the fall.

In connection with starting the employment and the assignment, the employer had the claimant sign multiple documents. One of those documents was an Assignment Policy, which reads as follows:

I understand that I am an employee of Advance Services, Inc. Only Advance Services, Inc. or I can terminate my employment. When my assignment ends, I must report to Advance Services, Inc. for my next job assignment. I understand that I am expected to complete any assignment I accept. If I do not complete the assignment, then Advance Services, Inc. can assume that I have voluntarily quit. When I am on assignment, I will not schedule any personal appointments, job interviews or make personal phone calls during my work hours. It is my obligation to call Advance Services, Inc. Within three

working days after my assignment ends or I will be considered a voluntary quit. Failure to do so could affect my eligibility for unemployment insurance benefits.

I have read this policy and I understand the ramifications of my actions as stated in this policy. I have received a copy of this policy for my records.

The claimant signed the policy on November 1, 2011. The employer had the claimant sign other documents containing multiple policies including reference to an obligation to contact the employer at the end of an assignment.

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.

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 evidence in the record indicates that the claimant completed an assignment on July 20, 2012, but did not contact the temporary employment agency until July 30, 2012 to indicate that the assignment had ended. The evidence also indicates that the employer's Assignment Policy does not fully comply with requirements of Iowa code section 96.5(1)(j). The policy statement does not comply with the statute because the policy statement contains multiple policies in addition to a statement regarding the claimant's obligation to contact the employer within three working days of the end of the work assignment. The statute requires a second single-policy statement regarding the obligation to contact the temporary employment agency within three working days of the end of assignment and the consequences of failing to do so. The statute requires that that single-policy statement be sent out separately from other policies. The employer's policy statement fails to meet the notice requirements of the statute and cannot be used as a basis to deny the claimant unemployment insurance benefits. Because the policy does not comply with the statute, the claimant satisfied his obligation to the temporary employment agency when he completed the assignment and was under no further obligation to contact the temporary employment agency. The claimant's July 20, 2012 separation was for good cause attributable to the temporary employment agency. The employer's account may be charged.

DECISION:

The Agency representative's August 15, 2012, reference 01, decision is affirmed. The claimant's July 20, 2012 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs