

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRANDON S BOYDSTON
Claimant

ADVANCE SERVICES INC
Employer

APPEAL 19A-UI-06558-JC

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/16/18
Claimant: Appellant (1)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant/appellant, Brandon S. Boydston, filed an appeal from the August 9, 2019 (reference 09) Iowa Workforce Development (“IWD”) unemployment insurance decision which denied benefits. After proper notice, an in-person hearing was held on September 24, 2019 in Council Bluffs, Iowa. The hearing was held jointly with Appeal 19A-UI-06559-JC. The claimant participated personally and in person. The employer, Advance Services Inc., participated through Melissa Lewien, risk manager. Ms. Lewien participated by telephone.

The administrative law judge took official notice of the administrative records including the fact-finding documents. Employer Exhibits 1-4 and Claimant Exhibit A were admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was last assigned at Bunge from January 28, 2019, to February 23, 2019. (The claimant had previously worked there twice before being assigned through Advance Services Inc.). The claimant quit the assignment but did not notify the client or employer. He quit to move to Council Bluffs.

The employer tried to call the claimant on March 1, 2019 after he had been a no-call/no-show for the week prior on assignment. He did respond to the message but does not know when. He did not ask for another assignment at the time. After the assignment ended, the claimant failed to report to the employer within three working days and request further assignment as required by written policy. (Employer’s Exhibit 1)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer. Benefits are denied.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant "who notifies the temporary employment firm of completion of an employment assignment *and* who seeks reassignment." (Emphasis supplied.)

The claimant quit the assignment on February 23, 2019 to move to Council Bluffs. In this case, the claimant did not notify the employer of his availability or request another assignment within three business days of his assignment ending and, therefore, is considered to have quit the employment, even though he may have returned to work for the temporary agency at some later date. Benefits are denied.

DECISION:

The August 9, 2019, (reference 09) unemployment insurance decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as he works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn