

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY A WELLS
Claimant

APPEAL NO: 06A-UI-11059-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 12/18/05 R: 03
Claimant: Respondent (1)

Section 96.5-1-j – Voluntary Quit- Temporary Employment

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed a representative's November 1, 2006 decision (reference 02) that concluded Timothy A. Wells (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because after the claimant completed an assignment he was in immediate contact with the employer about the completion of the assignment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 4, 2006. The claimant participated in the hearing. Tracy Davis, the office manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his temporary employment assignment for reasons that qualify him to receive unemployment insurance benefits, or was he laid off for lack of work?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant registered to work on behalf of the employer's clients on June 16, 2006. The employer assigned the claimant to work at Cardinal in Greenfield on June 19, 2006. This job was about 15 to 20 miles from the claimant's residence.

On September 22, 2006, Davis learned Cardinal did not have any work for the claimant and he would be laid off for a while. Davis notified the claimant that he was laid off at Cardinal as of September 22, 2006. Davis and the claimant did not talk about another job assignment on September 22.

The next week when the claimant picked up his paycheck, the employer told the claimant about a job in Creston. This job was farther away than the Cardinal job and did not pay as much. The claimant was not interested in the Creston job.

The claimant reopened his claim for unemployment insurance benefits during the week of September 24, 2006. The claimant just started a new job when the employer called him back to work at Cardinal. The claimant did not return to work at Cardinal because he did not want to quit a job he had just started.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. A claimant who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code section 96.5-1-j.

The intended purpose of this law is to put the temporary employment firm on notice that a claimant has completed a job assignment or has been laid off from a job assignment so the employer can assign the claimant to another job. The requirements of the law were satisfied when the claimant and employer talked to one another on September 22. Even though the employer may have contacted the claimant to inform him he had been laid off, the employer knew at that time, the claimant needed another job assignment and did not offer him another job. It must be presumed the employer would have told the claimant about another job if the employer had a suitable one for him. The only job the employer mentioned when the claimant picked up his paycheck the next week was a job in Creston that required him to travel about twice the distance he had been commuting and paid less. Under the facts of this case, the claimant is not disqualified from receiving benefits under Iowa Code section 96.5-1-j.

A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for seasonal employment. 871 IAC 24.1(113). The facts show that Cardinal laid off the claimant during a slowdown. The employer even called the claimant back to work at Cardinal. Unfortunately, by the time Cardinal again had work for the claimant, he had just started a new job. Based on these additional facts, the claimant still is qualified to receive unemployment insurance benefits. As of September 24, 2006, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's November 1, 2006 decision (reference 02) is affirmed. The claimant's September 22, 2006 employment separation occurred when the employer's client had no work for the claimant, which led to the claimant's layoff. Since the claimant and employer talked about the layoff on September 22, 2006, the claimant is qualified to receive unemployment insurance benefits as of September 24, 2006, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs