

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER W WELLS

Claimant

APPEAL NO: 06A-UI-10951-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

**OC: 09/24/06 R: 03
Claimant: Respondent (1)**

871 IAC 24.1(113) - Layoff

STATEMENT OF THE CASE:

Advance Services Inc. (employer) appealed a representative's November 1, 2006 decision (reference 02) that concluded Roger W. Wells (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 28, 2006. The claimant participated in the hearing with his witness, Michelle Wells. Tracey 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 employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temp-to-hire employment firm. The claimant registered to work for the employer's business clients on July 27, 2005. The employer assigned him to a job that day. The claimant worked at this job until September 22, 2006. On September 22, the business client notified the employer that the claimant had to be laid off from work. The employer contacted the claimant on September 22, 2006, to inform him he was laid off from work.

During the September 22 conversation, the employer and claimant talked about another job assignment. The employer told the claimant about a job that paid less and required him to travel farther from his residence. The claimant was not interested in this job. When the claimant contacted the employer the following week, he understood the employer did not have another job to assign to him. The claimant returned to the first job assignment on October 26, 2006.

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 §§ 96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual 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 § 96.5-1-j.

The facts establish the employer informed the claimant he was laid off from his job assignment on September 22, 2006. During this conversation, the employer and claimant talked about another job assignment. Based on these facts, Iowa Code § 96.5-1-j does not apply. The evidence establishes the claimant was laid off from work as of September 22 and returned to the same assignment on October 26, 2006. 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). A layoff amounts to a nondisqualifying employment separation. This means as of September 24, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 1, 2006 decision (reference 02) is affirmed. The claimant's September 22, 2006 employment separation occurred because the business client he had been working for since July 27, 2005, did not have work for him to do and laid him off from work. As of September 24, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs