

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAMERON A HILGENBERG
Claimant

APPEAL NO. 14A-UI-00974-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 12/29/13
Claimant: Appellant (1)

Section 96.5-1-j – Separation from Temporary Employment

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated January 23, 2014, reference 01, which denied benefits. After due notice was provided, a telephone hearing was held on March 10, 2014. Claimant participated. Participating as a witness for the claimant was Mr. David Weimers. The employer participated by Mr. Michael Payne, Risk Manager, and Ms. Sandra Ahmann, Office Manager. Employer's Exhibits A and B were received into evidence.

ISSUE:

The issue is whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Cameron Hilgenberg was employed by Advance Services, Inc. beginning June 4, 2007. Most recently Mr. Hilgenberg worked for Advance Services, Inc. from May 16, 2011 until December 30, 2013 at an assignment at Syngenta Seed Company where Mr. Hilgenberg worked as a general laborer.

On December 30, 2013, the assignment at Syngenta Seed Company came to an end as that facility was being closed. Mr. Hilgenberg was in contact with Advance Services, Inc. that day for the purpose of securing check stubs but not for the purpose of informing the temporary employment firm of his availability for additional assignments. Although the claimant had signed an agreement at the time of hire to contact the temporary employment service within three working days to give the temporary employment service notice of availability, the claimant had chosen not to do so because he wished to take some personal time before seeking employment with other perspective employers.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer. It was not.

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 Mr. Hilgenberg did not contact Advance Services, Inc. within three working days for the purpose of establishing his availability for additional assignments. Claimant's intention was solely to obtain check stubs. Mr. Hilgenberg did not give Advance Services, Inc. notice of his availability because he did not want any additional assignments at that time. Because the claimant failed to contact the temporary employment service agency within three working days for the purpose of establishing his availability for additional assignments as required by the statute and the agreement in effect between the parties, the administrative law judge concludes that the claimant's separation from employment was not attributable to the temporary employment agency. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated January 23, 2014, reference 01, is affirmed as modified. The portion of the determination finding the claimant voluntarily left employment without good cause attributable to the employer assessing the benefit disqualification is affirmed. The reason for the separation is modified to find that the claimant failed to contact the temporary employment agency within three working days at the completion of his last work assignment to establish his availability for more assignments. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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