

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY L ROBBINS
Claimant

APPEAL NO: 14A-UI-06284-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 05/04/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a – Non Disqualifying Employment Separation

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 16, 2014 (reference 01) determination that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated at the July 10 hearing. Michael Payne, the employer's Risk Manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit this employment for reasons that do not qualify him to receive benefits or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working at an assignment for the employer in September 2013. The claimant worked an average of 42.5 hours a week at this assignment. On March 28, 2014 the employer's representative told the claimant and a group of other temporary employees that this would be the last day of work at this assignment. If this had not been the last day at this assignment, the claimant would have worked the next night also.

The employer understood that the claimant was upset after being told this was his last night of work and he left before the end of his shift. The claimant contradicted the employer's testimony and explained that he only worked 33 hours that week because his assignment ended before Saturday, the last day of the week he would typically work.

The next day the claimant called the employer's representative about more work, but she did not respond to the messages he left. The employer's representative did not record that the claimant left messages for her.

The claimant established a claim for benefits the week of May 4, 2014. The claimant and employer participated at the fact-finding interview. The claimant filed claims for the weeks ending May 10 through July 12, 2014. He received his maximum weekly benefit amount of \$279.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. The employer asserted the claimant voluntarily quit because he did not work until the end of his last shift. The claimant contended that he worked until the end of the last shift. The claimant's testimony is credible. Even though the employer's business records indicated the claimant only worked 33 hours the last week of employment, the claimant explained that he would normally work on Saturday, but was told that Friday would be his last day of work. Since the claimant's testimony is credible, the facts do not establish that the claimant did not finish his last shift.

Even if the claimant left his last shift early, the law provides that when a claimant voluntarily quits in advance of an announced layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff. 871 IAC 24.25(40). Under either scenario, the claimant is eligible to receive benefits as of March 30, 2014.

While the employer did not assert this, the evidence also indicates the claimant tried to timely contact the employer's representative about another job. Unfortunately, the representative did not return the claimant's call or record that he called. The representative may not have contacted the claimant since the employer considered the claimant to have voluntarily quit. As a result, the employer did not consider the claimant eligible for another job assignment.

The claimant's employment ended for non disqualifying reasons as he was laid off from work. As of May 4, 2014 the claimant is qualified to receive benefits.

DECISION:

The representative's June 16, 2014 (reference 01) determination is affirmed. The claimant did not voluntarily quit. Instead, he was laid off from work. The claimant's employment ended for nondisqualifying reasons. As of May 4, 2014 the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can