

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAMELA A BEARDMORE**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 18A-UI-05674-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/03/17**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the May 14, 2018, (reference 03) unemployment insurance decision that denied benefits based on her voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on June 8, 2018. The claimant participated and testified. The employer did not participate. Claimant's Exhibit A was received into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part-time as clerical staff last assigned at Smithfield Foods beginning March 29, 2018, and separated from the assignment, but not the employment, on March 29, 2018. On March 28, 2018, claimant spoke at length to a representative with the employer about open positions and the specific position at Smithfield Foods. Claimant's work history consisted of clerical work and she wanted to be sure the employer understood this. Claimant was assured the position was clerical and located in an office. Claimant was also advised it was the only open position the employer had for clerical work.

Claimant showed up to work on March 29, 2018 as scheduled. When claimant arrived and was shown to her office, she found it to be a cleared out tool crib. Claimant noted it was dirty and very hot, but most problematically, there were mouse droppings all over and an overwhelming odor of a dead mouse. Claimant saw mouse droppings all over the desk and surrounding the computer keyboard. Claimant asked if there was any way the area could be cleaned. The response claimant got was that they usually have gloves and Clorox wipes, but were all out. By the end of her four hour shift claimant had a headache from the stench of the dead mouse. Claimant determined she would not return to the assignment based on the unsanitary working conditions. Claimant immediately notified the employer of such by leaving a voicemail, as she had been given a policy instructing her to do so upon her hire. The employer did not return

contact with the claimant until a day later via text message. No additional assignments were offered at that time.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

Iowa Code § 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. (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 lettered paragraph:

(a) "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.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Iowa Admin. Code r. 871-24.26 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:

(2) The claimant left due to unsafe working conditions.

...

(4) The claimant left due to intolerable or detrimental working conditions.

Here, claimant resigned her temporary position after learning she would be working in an area where she would be forced to come into contact with mouse droppings, without proper sanitization or protective gear, and endure the smell of decaying mice. Such working conditions are not sanitary and claimant has shown good cause for resigning from the assignment.

Iowa Admin. Code r. 871-24.26(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 § 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 § 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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Claimant contacted the employer immediately after leaving her assignment on March 29, 2018 to tell them she would not be returning. Claimant did not hear back from the employer right away, but when she did hear back on March 30, no additional assignment was offered. Since she contacted the employer within three working days of the notification of the end of the assignment and there was no work available, no disqualification is imposed.

**DECISION:**

The May 14, 2018, (reference 03) unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs