

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA I REYES

Claimant

APPEAL NO. 12A-UI-14026-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC

Employer

OC: 10/21/12

Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated November 19, 2012, reference 01, which denied unemployment insurance benefits finding that the claimant voluntarily quit employment by failing to notify the temporary employment firm within three working days of the completion of her last work assignment.. After due notice was provided, a telephone hearing was held on January 3, 2013. The claimant participated personally. The employer participated by Mr. Steve Volle, Loss Prevention Specialist. Employer's Exhibits One, Two and Three were received into evidence.

ISSUE:

At issue is whether the claimant voluntarily left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Maria Reyes was most recently employed by Advance Services Inc. from August 21, 2012 until October 2, 2012 when the assignment came to an end. Ms. Reyes was assigned to work at the Syngenta Company as a sorter and general laborer doing labor and was paid by the hour. The claimant's Advance Services contact person at the job site was Maryann Longbine.

On October 2, 2012, Ms. Reyes was informed by Maryann Longbine, a representative of Advance Services Inc. that the assignment at the Syngenta location had ended. Ms. Reyes inquired at that time from the Advance Services representative as to whether any other jobs were available at that time through Advance Services. Ms. Longbine responded that there were not. Because the claimant's inquiry was not entered into the company's computer system, Advance Services concluded that Ms. Reyes had not contacted the temporary employer within three working days of the end of her last assignment as agreed at the time that Ms. Reyes began employment with Advance Services.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of the temporary assignment. In this case, the employer had notice of the claimant's availability because they notified her of the end of the assignment and the claimant inquired as to whether any additional assignments were available to her at that time. Benefits are allowed.

DECISION:

The representative's decision dated November 19, 2012, reference 01, is reversed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about her availability as required by the statute. Benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css