IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

PEDRO GARZA
Claimant

ADVANCE SERVICES INC
Employer

APPEAL NO. 15A-UI-14008-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/14/14
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed a representative's December 17, 2015 (reference 02) decision that concluded Pedro Garza (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 12, 2016. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Michael Payne, Risk Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services from February 20, 2006 through November 20, 2015. On November 23, 2015, he told the employer he was going to Texas for a family emergency. The claimant is still in Texas. Continued work was available had the claimant not resigned. On January 4, 2016, the claimant contacted the employer's office in Texas and asked for work.

The claimant filed for unemployment insurance benefits with an effective date of December 14, 2015. He did not receive any unemployment insurance benefits after the separation from employment. The employer participated personally at the fact-finding interview on December 16, 2015 by Steve Volle.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code § 96.5-1 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.

Iowa Admin. Code r. 871-24.25(2) provides:

> Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:
>
> (2) The claimant moved to a different locality.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by his words and actions. He told the employer he was leaving and did not return. When an employee quits work because he is moving to a different location, his leaving is without good cause attributable to the employer. The claimant left work because he was moving to a different locality. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's December 17, 2015 (reference 02) decision is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

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