

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CALEB T NEFF**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 20A-UI-01512-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/15/19**  
**Claimant: Respondent (1R)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the February 17, 2020 (reference 01) unemployment insurance decision that allowed benefits to the claimant based upon his separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on March 6, 2020. The claimant, Caleb T. Neff, did not participate. The employer, Advance Services Inc., participated through witnesses Melissa Lewien and Danielle Sampson. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

**ISSUES:**

Did the claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment, or had good cause for his failure to do so?  
Has the claimant been overpaid any unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?  
Can any charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a temporary employment firm. He was placed into a full-time temporary position at Case New Holland working as a material handler. He began this job placement on March 25, 2019. His last day physically worked on the job was January 23, 2020. On January 23, 2020, Ms. Sampson telephoned the claimant and left him a voicemail message. Her voicemail message stated "don't return to work until you speak to me". The claimant did not contact her back. This employer has a written policy that provides it is the claimant's responsibility to contact the employer within three working days after the end of the assignment to request further assignments. See Exhibit 1. Claimant received a copy of the policy. Ms. Sampson spoke to the claimant on February 3, 2020 regarding another job offer.

The issue of whether the claimant refused an offer of work from this employer in February of 2020, or whether the claimant was able to and available for work shall be remanded to the Benefits Bureau for an initial investigation and determination.

The claimant's administrative records establish that he has received unemployment insurance benefits of \$2,235.00 for five weeks between his additional claim date of January 26, 2020 and February 29, 2020. The employer participated in the fact-finding interview by telephone.

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

For the reasons that follow, the administrative law judge concludes the separation was not disqualifying. Benefits are allowed, provided the claimant is otherwise eligible.

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 paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce 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(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

In this case, Ms. Sampson never notified the claimant that his job assignment was ending, she simply stated do not report to work until you contact me. There could be numerous reasons for this request besides the end of the job assignment. Without Ms. Sampson providing clear information that the claimant's job assignment was ending, there is substantial and justifiable reasons for the claimant's failure to notify the employer that he wanted a different job assignment. As such, good cause for the claimant's failure to contact the employer within three working days of the end of his job assignment has been established. See Iowa Admin. Code r. 871-24.26(15)c. The separation is not disqualifying. Benefits are allowed, provided claimant is otherwise eligible. Because benefits are allowed, the issues of overpayment and chargeability are moot.

**DECISION:**

The February 17, 2020 (reference 01) unemployment insurance decision is affirmed. The claimant's separation was not disqualifying. Benefits are allowed, provided claimant is otherwise eligible.

**REMAND:**

The issues of whether claimant refused an offer of work with this employer and has been able to and available for work are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/scn