

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CHRISTOPHER M HEGINGER
513 EAST ST
KLEMME IA 50449

EXPRESS SERVICES INC
PO BOX 720660
OKLAHOMA CITY OK 73172

Appeal Number: 05A-UI-00915-CT
OC: 11/07/04 R: 02
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)j – Temporary Employment
Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Express Services, Inc. filed an appeal from a representative's decision dated January 24, 2005, reference 03, which held that no disqualification would be imposed regarding Christopher Heginger's separation from employment. After due notice was issued, a hearing was held by telephone on February 11, 2005. Mr. Heginger participated personally. The employer participated by Andre Smith, Staffing Consultant.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Heginger began working through Express Services, Inc., a temporary placement service, on November 18, 2004. He was assigned to work at Sunny Fresh Foods and worked a Monday through Thursday schedule. Mr. Heginger worked on December 20 and 21 and then the plant was shut down for the Christmas holiday. Therefore, he filed an additional claim for job insurance benefits effective December 19, 2004. During the following week, Mr. Heginger only worked December 27 and 28 before the plant shut down for the New Year's holiday.

Mr. Heginger was to return to work at Sunny Fresh Foods on January 3, 2005 but was contacted before the start of his shift and told that the assignment was over. He was not offered further work at that time. On January 6, he accepted an assignment with Andrews Prestressed Concrete, where he began on January 10, 2005. As of the date of the hearing, he was still on the assignment.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Heginger was separated from employment for any disqualifying reason. He did not become separated from his assignment with Sunny Fresh Foods until January 3, 2005. For the two weeks prior, he had reduced workweeks due to holiday closings. Because the time missed during the two weeks ending January 1, 2005 were due to holiday closings and not layoffs, the administrative law judge concludes that Mr. Heginger was not obligated to seek work through Express Services, Inc. for the days he missed.

Mr. Heginger's assignment with Sunny Fresh Foods did not end until January 3, 2005. Although he asked about the availability of work on January 3, none was available. Therefore, he was totally unemployed the week ending January 8. He was in contact with the employer within three working days after January 3 and accepted a new assignment on January 6, 2005 to start January 10. Therefore, he has satisfied the requirements of Iowa Code section 96.5(1)j. Mr. Heginger is not currently eligible for job insurance benefits effective January 9, 2005 as he has resumed full-time work.

DECISION:

The representative's decision dated January 24, 2005, reference 03, is hereby affirmed. Mr. Heginger is allowed benefits effective December 19, 2004 as he was partially unemployed. Benefits are denied effective January 9, 2005 as he was no longer available for work due to full-time employment.

cfc/pjs