

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CASEY J TASY
Claimant

APPEAL NO. 10A-UI-05078-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**Original Claim: 02/21/10
Claimant: Appellant (2)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Casey Tasy filed a timely appeal from the March 26, 2010, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on May 18, 2010. Ms. Tasy participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Casey Tasy worked for Express Services in a full-time, temporary employment assignment at R.R. Donnelley. Ms. Tasy most recently performed work in the assignment on February 20, 2010. On Monday, February 22, 2010, Holly Burtness of Express Services notified Ms. Tasy that the assignment was ended because the client business no longer had work for Ms. Tasy. R.R. Donnelley staff had previously warned Ms. Tasy and other temporary workers that it would soon no longer have work for them. At the time Ms. Burtness notified Ms. Tasy that the assignment was done, Ms. Burtness asked Ms. Tasy whether she wanted Express Services to try to find her a new assignment. Ms. Tasy told Ms. Burtness she would like to think about that because she wanted to return to R.R. Donnelley. The next day, Ms. Tasy notified the employer that she did want a new assignment. Express Services had no work available for Ms. Tasy at that time.

REASONING AND CONCLUSIONS OF LAW:

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 employer has presented no evidence to establish that the employer complied with the requirements of Iowa Code section 96.5(1)(j). In the absence of such evidence, the statute does not apply. Ms. Tasy completed her assignment. If she decided not to seek further assignments with the temporary employment agency, that would not disqualify her for benefits. But, the evidence indicates that Ms. Tasy did notify the temporary employment agency the day after her assignment ended to request a new assignment. The employer had no work for her at that time.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Tasy's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Ms. Tasy is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Tasy.

DECISION:

The Agency representative's March 26, 2010, reference 02, decision is reversed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw