

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONALD J HALL
Claimant

APPEAL NO. 08A-UI-08449-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 07/06/08 R: 02
Claimant: Respondent (1)**

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

Express Services, Inc. (Express) filed an appeal from a representative's decision dated September 9, 2008, reference 02, which held that no disqualification would be imposed regarding Ronald Hall's separation from employment. After due notice was issued, a hearing was held by telephone on October 16, 2008. Mr. Hall participated personally. The employer participated by Bernadette Bohl, Front Office Coordinator, and Dale Richtsmeier, Staffing Consultant.

ISSUE:

At issue in this matter is whether Mr. Hall was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hall began accepting assignments through Express, a temporary placement service, on April 24, 1997. His last assignment was with Larson Clear Lake, where he began working full time on May 29, 2008. His actual last day at work was June 24. He called to report that he would be absent due to illness on June 25 and 26. On June 27, he presented a doctor's note to Express releasing him to return to work on June 27.

Mr. Hall went to Larson Clear Lake before the start of his 3:00 p.m. shift on June 27. He spoke to the plant manager to turn in his doctor's excuse. He was advised that he no longer had a job because he had missed at least 27 hours of work, which is grounds for discharge from the assignment. After leaving Larson Clear Lake, Mr. Hall returned to Express and gave notice that his assignment had ended. There were no new assignments available at that time. Other than June 25 and 26, the only other day he missed was on June 9, when he was absent due to flooding.

REASONING AND CONCLUSIONS OF LAW:

Mr. Hall was released from his last assignment before its completion because of his attendance. He immediately notified Express Services, Inc. that the assignment was over but no other work was offered at that time. For the above reasons, the administrative law judge concludes that he is entitled to job insurance benefits pursuant to Iowa Code section 96.5(1)j.

Even if the administrative law judge were to conclude that Mr. Hall was discharged, there would still be no basis for disqualification from benefits. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. All three of Mr. Hall's absences were for reasonable cause, illness and flooding, and all were properly reported. As such, they were all excused absences.

Excused absences may not form the basis of a misconduct disqualification, regardless of how excessive. Therefore, even if the administrative law judge were to conclude that he had been discharged, the discharge was not for misconduct within the meaning of the law. For the reasons cited herein, no disqualification is imposed.

DECISION:

The representative's decision dated September 9, 2008, reference 02, is hereby affirmed. Mr. Hall was separated from employment on June 27, 2008 for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw