

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRETT J HEIN
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 16A-UI-09322-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/27/15
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 19, 2016, (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on September 14, 2016. The claimant, Brett Hein, participated. The employer, Express Services, Inc., participated through Valerie Hefel, staffing consultant.

ISSUE:

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time temp-to-hire, most recently as a laborer, from July 13, 2016 until his assignment ended on July 15, 2016, when he reported to the employer that he was quitting his current job assignment. Claimant felt the job site had misrepresented the nature of the position. Specifically, no one had told him he would have to work with acid and use a respirator. Additionally, the work environment was unbearably hot.

After his shift ended on Friday, claimant reported back to the employer and spoke with Rachel. He told Rachel that the job was not what he expected, and he asked for a new assignment. Claimant interviewed for a new assignment on July 18, 2016, and he began working for the new assignment the following week. Hefel testified that the employer maintains a policy that complies with the specific terms of Iowa Code § 96.5(1)j, and claimant followed this policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. Since both parties admit that claimant contacted the employer within three working days of the notification of the end of the assignment and requested reassignment, no disqualification is imposed. Benefits are allowed.

DECISION:

The August 19, 2016, (reference 03) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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