

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HERLIE D. JOHNSON
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 21A-UI-09287-CS-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/31/21
Claimant: Appellant (2)

Iowa Code §96.5(2)a- Discharge/Misconduct
Iowa Code §96.5(1)- Voluntary Quit
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

On March 27, 2021, the claimant/appellant filed an appeal from the March 23, 2021, (reference 02) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting by failing to notify temporary employment firm within three days of completion of work. The parties were properly notified about the hearing. A telephone hearing was held on June 8, 2021. Claimant personally participated at the hearing. Employer failed to register a phone number prior to the hearing and did not participate at the hearing. Exhibit A was admitted.

ISSUE:

Did the 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: The claimant was employed full-time as a temp in production last assigned at Con-Trol Container Management from April 21, 2020, and was separated from the assignment, but not the employment, on June 22, 2020. The employer assignment representative notified the claimant that the assignment had ended. The claimant immediately requested a new assignment. The employer assignment representative called claimant back the next day and said they did not have any assignments for him. Claimant called back again requesting a new assignment and the employer assignment representative again advised the claimant that there were no additional assignments available. Claimant did request placement in a new assignment within three working days of the assignment ending pursuant to the employer's notification requirement but no further assignments were available at the time.

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 lettered paragraph:

(a) "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.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

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 claimant contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, no disqualification is imposed.

DECISION:

The March 23, 2021, (reference 02) unemployment insurance decision is REVERSED. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

A handwritten signature in cursive script that reads "Carly Smith". The signature is enclosed within a faint, rectangular border.

Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 21, 2021
Decision Dated and Mailed

cs/ol