

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAEPHIEL S DAY
Claimant

APPEAL NO. 14A-UI-01051-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 12/01/13
Claimant: Appellant (2)

Section 96.5-1-j – Separation from Temporary Employment

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated January 21, 2014, reference 02, which denied unemployment insurance benefits finding that the claimant voluntarily quit employment on December 1, 2013 when she failed to notify the temporary employment firm within three working days of the completion of her last work assignment. After due notice was provided, a telephone hearing was held on February 19, 2014. Claimant participated. The employer participated by Mr. Tori Bensen, Office Consultant.

ISSUE:

The issue is whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Raephiel Day began employment with Express Services, Inc. on July 22, 2013 and worked until October 8, 2013 when her temporary assignment at Rain and Hail Insurance Company came to an end. The claimant was informed on October 8, 2013 by a representative of Express Services, Inc. that the assignment at the client employer had ended. Ms. Day asked about additional assignments that day but there were none. The claimant remained in weekly contact with Express Services, Inc. for an extended period but later sought employment with other perspective employers.

When the claimant accepted employment with Express Services, Inc., the temporary employment service had the claimant sign an agreement to contact the temporary employment service within 72 hours of the completion of her last work assignment and to maintain contact once each week thereafter.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Raephiel Day's separation from the temporary employment agency was for good cause attributable to the employer. It was.

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 evidence in the record indicates that Ms. Day was required to sign an agreement with Express Services, Inc. at the time of hire that exceeded the requirements of Iowa Code section 96.5-1-j. Section 96.5-1-j provides that employees of a temporary employment must notify the temporary employment firm of the completion of an assignment within three working days of the completion of each employment assignment and failure to do so shall be deemed a voluntary quit. The statutory provision does not require ongoing contact with the temporary employment firm but only that contact be made for an additional work assignment within three working days. The administrative law judge notes that the contract in question did not specify three working days but limited the time to 72 working hours in violation of the statute and also required ongoing contact in excess of the statute's requirements.

The administrative law judge concludes that the claimant's separation from the temporary employment was for good cause attributable to the temporary employer as the assignment came to an end and there was no work available to the claimant. The claimant had direct contact with Express Services, Inc. on her final day of employment and inquired about additional work but there was none. The claimant is not subject to a benefit disqualification for failing to maintain contact with Express Services, Inc. some two months later. The claimant's contact with the temporary employment service was in compliance with the statutory requirements although the temporary employment service's contract and expectations were not in compliance with the statute. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated January 21, 2014, reference 02, is reversed. Claimant had no disqualifying separation from employment on or about December 1, 2013 and is not subject to a benefit disqualification based upon her employment with Express Services, Inc.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs