

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DION HOUDEK**

Claimant

**APPEAL NO: 12A-UI-03754-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**

Employer

**OC: 12/18/11**

**Claimant: Appellant (4)**

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

**STATEMENT OF THE CASE:**

Dion Houdek (claimant) appealed an unemployment insurance decision dated April 3, 2012, reference 02, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Express Services, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 26, 2012. The claimant participated in the hearing. The employer participated through Jim Cole, Staffing Consultant. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment, when and if notified of this requirement at the time of hire.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment agency and the claimant was hired on December 6, 2004. At the time of hire, he was given a copy of the employer's handbook which contains an end-of-assignment notification policy; the policy is not a standalone document. The claimant signed for receipt of the handbook and the receipt contained a paragraph about the notification policy. The employer requires employees to check in within three working days after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit.

The claimant started a long-term assignment as a general laborer with Con-Trol Container Management on December 6, 2004. Con-Trol issued the claimant two verbal warnings on December 7, 2011. One warning was for leaving work early four times within the last three weeks and the other warning advised him that he needed to take a 30-minute lunch break instead of a 15-minute break. There was a two-week company shut-down in December 2011. The claimant received an additional verbal warning for leaving the warehouse in disarray.

There were continued problems and Con-Trol requested the claimant be removed from his assignment effective February 10, 2012.

A Con-Trol employee advised the claimant to turn in his keys and the claimant eventually spoke with the owner of the employer's company. The claimant contends the owner told him they would look for another assignment for him. He also testified he did not check back in with the employer because he was looking for a long-term assignment. However, he re-filed his claim for unemployment insurance benefits effective February 19, 2012. The claimant was denied benefits in a decision dated April 3, 2012 and he checked in with the employer for work on April 5, 2012. He returned to employment with the employer on April 25, 2012.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code §96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

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.

In the case herein, it does not appear that the employer's end-of-assignment notification policy satisfies the requirements of Iowa Code § 96.5(1)(j). The policy is contained within the employer's handbook and not a separate document. Even if it is, the employer did not provide any updated information and expecting an employee to remember a document signed over seven years earlier is unreasonable. Furthermore, the claimant testified the owner told him that they would look for a job for him and since the owner did not participate, that evidence could not be disputed. Consequently, the claimant's separation was with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The unemployment insurance decision dated April 3, 2012, reference 02, is modified in favor of the appellant. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible. Benefits are allowed from December 18, 2011 through April 21, 2012, since the claimant returned to work on the following week.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs