

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEXANDER R SWAN
Claimant

APPEAL NO. 12A-UI-08330-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 06/03/12
Claimant: Respondent (1-R)

Section 96.5(1)j – Quit/Temporary

STATEMENT OF THE CASE:

The employer, Express Services, filed an appeal from a decision dated July 5, 2012, reference 01. The decision allowed benefits to the claimant, Alexander Swan. After due notice was issued, a hearing was held by telephone conference call on August 6, 2012. The claimant participated on his own behalf. The employer participated by Owner Matt Timmerman.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Alexander Swan was employed by Express from July 11, 2011 until January 11, 2012. He was assigned to Meyer-Cox. The assignment ended as the client no longer had need of extra workers. Mr. Swan contacted the Express office January 18, 2012, to state he was available for another assignment.

The employer called him the next day to offer him a long-term assignment at Peosta Warehouse and left a voice mail. The claimant admitted he did not answer unidentified calls and the employer had used a phone number he did not recognize. A voice mail message was left but Mr. Swan also admitted he does not listen to his voice mails.

Mr. Swan maintained he had worked elsewhere subsequent to this separation but could not provide information. The record was kept open until 9:00 a.m. on Friday, August 10, 2012, to allow the claimant time to provide documentation of further employment. By the time the record was closed at 10:00 a.m. on Friday, August 10, 2012, Mr. Swan had not provided such information.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant did comply with the requirements of the above Code section by requesting another assignment within three days of the end of his previous assignment. Disqualification may not be imposed.

The issues of a refusal of work, and whether he is available for work, should be remanded for determination based on the claimant's admission he does not answer his phone or listen to his voice mails.

DECISION:

The representative's decision of July 5, 2012, reference 01, is affirmed. Alexander Swan is qualified for benefits, provided he is otherwise eligible.

The issues of work refusal and availability for work are remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css