

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE L BROOKS
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 24A-UI-03563-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/10/24
Claimant: Respondent (1)**

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

STATEMENT OF THE CASE:

On April 4, 2024, employer Express Services Inc. filed an appeal from the March 26, 2024 (reference 01) unemployment insurance decision that allowed benefits, determining the employer discharged claimant Jamie L. Brooks on January 17, 2024 and did not establish claimant committed willful or deliberate misconduct. The Unemployment Insurance Appeals Bureau mailed notice of the hearing on April 9, 2024. Administrative Law Judge Elizabeth A. Johnson held a telephonic hearing at 9:00 a.m. on Thursday, April 25, 2024. Claimant Jamie L. Brooks personally participated. Employer Express Services Inc. participated through Katy McMahan, Owner. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began an employment relationship with Express Services on May 16, 2022. She has worked a variety of assignments through the employer. Most recently, claimant held a full-time packaging/truck operator assignment at Barilla. She began this assignment on September 20, 2023. Claimant's assignment ended on January 18, 2024, because claimant could not be hired on by Barilla.

Claimant's assignment with Barilla was scheduled to end on December 24, 2023. The assignment was extended so claimant could continue working while she went through the process to be hired on as a Barilla employee. Claimant did not meet Barilla's criminal background requirement, so Barilla notified recruiter Bailey that it would not be hiring claimant. On January 17 and 18, 2024, Bailey spoke with claimant to notify her the assignment was ending. Barilla could not hire claimant, and the employer could no longer place her there as a temp. Claimant told Bailey that she was available for a new assignment. By the time Bailey got back to claimant with an assignment for her, claimant had accepted work with another employer.

The employer maintains a policy requiring employees to check back in within three days after completing an assignment to request additional work. Claimant signed off on this policy upon

her hire. The employer's recruiters and claimant have had several interactions since her separation; all of those conversations predate the original claim date of March 10, 2024.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation is a qualifying quit from temporary employment. Benefits are allowed, provided she is otherwise eligible.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(15) 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:

(15) 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 had 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.

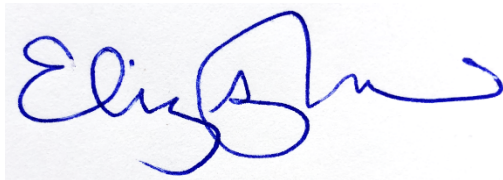
d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

On January 18, 2024, claimant's assignment at Barilla officially ended. Claimant requested a new assignment during her conversation with the recruiter that day—the same day the assignment ended. Claimant is not disqualified; benefits are allowed provided claimant is otherwise eligible. Because claimant's separation was not disqualifying, the issues of overpayment, repayment and chargeability are moot.

Because all of the offers of work from the employer to the claimant discussed during the hearing came prior to the claim date of March 10, 2024, this matter is not remanded to the Benefits Bureau of Iowa Workforce Development to determine whether she refused an offer of suitable work. If claimant is offered and refuses an offer of work now that she has filed a claim for benefits, the employer should report that to Iowa Workforce Development.

DECISION:

The March 26, 2024 (reference 01) unemployment insurance decision is affirmed. Claimant's separation is a qualifying separation from temporary employment. Benefits are allowed, provided she is otherwise eligible. The issues of overpayment and chargeability are moot.



Elizabeth A. Johnson
Administrative Law Judge

April 30, 2024
Decision Dated and Mailed

lj/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.