

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JOSH A PETERS
603 GABRIELSON DR #15
BELMOND IA 50421**

**EXPRESS SERVICES INC
PO BOX 720660
OKLAHOMA CITY OK 73172**

**Appeal Number: 05A-UI-11317-AT
OC: 10-02-05 R: 02
Claimant: Respondent (2)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1-j – Voluntary Quit from Temporary Employment
Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Express Services, Inc., filed a timely appeal from an unemployment insurance decision dated October 31, 2005, reference 02, which allowed benefits to Josh A. Peters. After due notice was issued, a telephone hearing was held November 16, 2005, with Mr. Peters participating. Staffing Consultant Andre Smith participated for the employer.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Josh A. Peters worked on assignment at Eaton

Corporation for Express Services, Inc. from sometime in 2004 until the assignment ended on or about October 1, 2005. When Mr. Peters was hired, he was given a separate written notice advising him that he must contact Express Services, Inc. within three working days after the end of an assignment in order to seek reassignment. Mr. Peters did not do so. He has received unemployment insurance benefits in the gross amount of \$732.00 since filing a claim for benefits effective October 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant's separation from employment was a disqualifying event. It does.

The general rule in Iowa is that each temporary assignment is considered a separate period of employment. In general, employees are not required to seek reassignment from their employers. The general rule is amended by Iowa Code section 96.5-1-j for those temporary employment firms that comply with the terms of the statute.

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 evidence before the administrative law judge establishes that Express Services, Inc. has met the statutory requirements. It provided Mr. Peters with written notification at the time of hire that he must contact Express Services within three working days after the end of his assignment or that he would be considered to have voluntarily left employment. The evidence also establishes that Mr. Peters did not contact the company as required.

Mr. Peter's rebuttal was that he has been granted department approved training status and thus is exempt from the requirement of being available for work and the requirement of accepting suitable work as required by Iowa Code sections 96.4-3 and 96.5-3. A review of Agency decision records establishes that Mr. Peters was granted department approved training status only after he had failed to contact Express Services. Furthermore, his disqualification is under Iowa Code section 96.5-1 rather than one of the law sections covered by department approved training status. Benefits must be withheld.

Mr. Peters has received unemployment insurance benefits to which he is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated October 31, 2005, reference 02, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. He has been overpaid by \$732.00.

kkf/kjw