

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**CLAYTON J DOMONKOS**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL 15A-UI-10893-DL**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/21/14**  
**Claimant: Appellant (2)**

---

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 18, 2015, (reference 05) unemployment insurance decision that denied benefits because of voluntarily quitting the employment. After due notice was issued, a hearing was held on October 14, 2015, in Waterloo, Iowa. Claimant participated. Employer did not respond to the hearing notice instruction and did not participate.

**ISSUE:**

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time helper/forklift operator assigned at Iowa Laser through July 23, 2015. Express Services job coordinator Jim Cole told claimant the assignment ended because of a lack of work and he was actively looking for work for claimant but did not tell him there was any work available. Cole contacted claimant and set up a tour of Bertch Cabinetry for August 11 where he and his wife might work and share transportation to first shift work. Cole called back and said the tour date would not work for Bertch and he would let claimant know when a tour would take place but did not get back to him. Claimant was unavailable for work the one week ending August 15, 2015, and did not claim or receive benefits for that week. The employer does have a policy that complies with the specific terms of Iowa Code § 96.5(1)j but did not provide claimant with a paper copy of that document.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(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.

Claimant's recollection that he did not receive notice of the reporting policy is credible. Furthermore, Cole's assertion that the employer was actively looking for work for claimant infers there was no further work available at the time. Accordingly, claimant was reasonable to opt to look for work elsewhere or to report for additional work when he did.

**DECISION:**

The September 18, 2015, (reference 05) unemployment insurance decision is reversed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/pjs