

**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**

**ISAAC D ROACH
293 – 18 AVE SW
CEDAR RAPIDS IA 52404**

**EXPRESS SERVICES INC
PO BOX 720660
OKLAHOMA CITY OK 73172-0660**

**Appeal Number: 04A-UI-03213-RT
OC: 02-15-04 R: 03
Claimant: Appellant (1)**

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 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Isaac D. Roach, filed a timely appeal from an unemployment insurance decision dated March 12, 2004, reference 04, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on April 13, 2004 with the claimant not participating. Although the claimant had called in a telephone number in advance of the hearing where he purportedly could be reached for the hearing, when the administrative law judge twice attempted to call that number at 11:01 a.m. and again at 11:03 a.m., the administrative law judge reached a voice mail that identified the persons as "Isaac." The administrative law judge left a message that he was going to proceed with the hearing and if the claimant wanted to participate he needed to call before the hearing was over and the record was closed. The hearing began when the record was opened at 11:06 a.m. and ended when

the record was closed at 11:15 a.m. and the claimant had not called during that time. Brian Fuller, Franchise Owner, participated in the hearing for the employer, Express Services, Inc. Employer's Exhibit 1 was admitted into evidence. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer from December 13, 2002 until he voluntarily quit on or about August 25, 2003. The employer is a temporary employment agency and the most recent assignment prior to the claimant's separation was with Valley Apparel. This assignment was long-term beginning on August 20, 2003. However, the claimant did not satisfactorily complete that assignment since it was ended on August 25, 2003 by Valley Apparel because the claimant's work was not satisfactory. The claimant did not notify the employer of the completion or ending of his assignment and did not seek reassignment until October 3, 2004. The employer has a rule or policy as shown at Employer's Exhibit 1, including a separate page signed by the claimant, indicating that an employee who completes a job assignment must notify the employer and seek reassignment within three working days as mandated by state law. The claimant did not do so here.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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 administrative law judge concludes that the claimant left his employment voluntarily. The employer's witness, Brian Fuller, Franchise Owner, credibly testified that the employer is a temporary employment firm that assigned the claimant to Valley Apparel for a long-term assignment on August 20, 2003. Mr. Fuller further credibly testified that the assignment ended early on August 25, 2003. Finally, Mr. Fuller credibly testified that the claimant did not notify the employer of the completion of his assignment and seek reassignment within three business days as provided by state law. Mr. Fuller credibly testified that the claimant was informed in writing of the notification requirement and that he was required to read and did sign a document containing that notification requirement as shown at Employer's Exhibit 1. Accordingly, pursuant to Iowa Code Section 96.5-1-j, the administrative law judge concludes that the claimant failed to notify the employer, a temporary employment firm, of the completion of his assignment and seek reassignment within three working days and therefore his failure to do so is deemed a voluntary quit. Therefore, the administrative law judge concludes the claimant left his employment voluntarily. The issue then becomes whether the claimant left his employment without good cause attributable to the employer.

The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code Section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant did not participate in the hearing and provide evidence of reasons attributable to the employer for his quit. There is no evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental or that he was subjected to a substantial change in his contract of hire. Rather, the evidence indicates that the claimant simply did not return to the employer and notify the employer of the completion of his assignment and seek reassignment. This is not good cause attributable to the employer. Accordingly, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer, and, as a consequence, he is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless he requalifies for such benefits. Iowa Workforce Development records do seem to indicate that the claimant has requalified to receive unemployment insurance benefits since separating from the employer herein by his earnings at Protective Coating, Inc. and other employers but the administrative law judge reaches no conclusion on that issue because it was not before the administrative law judge nor was it set out on the notice of appeal.

DECISION:

The representative's decision of March 12, 2004, reference 04, is affirmed. The claimant, Isaac D. Roach, is not entitled to receive unemployment insurance benefits until or unless he has requalified to receive unemployment insurance benefits.

tjc/b