

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHNNY LEE JR**  
Claimant

**APPEAL NO: 09A-UI-03369-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 01/11/09**  
**Claimant: Respondent (1)**

Section 96.5-1-j - Voluntary Quit of Temporary Employment

**STATEMENT OF THE CASE:**

Express Services, Inc. (employer) appealed an unemployment insurance decision dated February 11, 2009, reference 04, which held that Johnny Lee Jr. (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 30, 2009. The claimant participated in the hearing. The employer participated through Holly Burtness, Staffing Consultant. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant failed to contact the temporary employment agency within three working days after the completion of his assignment when notified of this requirement at the time of hire.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a temporary laborer on September 27, 1996. At the time of hire, the claimant signed an availability statement which advised him of the requirement to check in for additional work after the completion of an assignment. The employer requires employees to check in within 48 hours after an assignment ends to provide the employer notification of the claimant's availability and failure to do so would be considered as a voluntary quit. The claimant was given a copy of the availability statement, which is not part of the application or contract of employment.

The claimant's most recent assignment at Clear Lake Specialty Products started on April 9, 2008 and ended on May 19, 2008. The employer testified the claimant was taken off the assignment on May 20, 2008 and did not request additional work at that time or at any time thereafter until January 26, 2009. The claimant testified the assignment ended on May 19, 2008 and he went into the office on May 20, 2008 but no additional work was available. He testified he checked in weekly for additional work but none was available.

## **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code section 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

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.

In the case herein, the claimant knew that he was required to make his availability known to the employer at the completion of an assignment. He testified he did and the employer testified that he did not. Since neither party appeared more credible than the other, the benefit of the doubt

must be given to the claimant. The claimant is considered to have voluntarily quit with good cause attributable to the employer and benefits are allowed.

**DECISION:**

The unemployment insurance decision dated February 11, 2009, reference 04, is affirmed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs