

**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**

**CRAIG A RAY  
116 – 6<sup>TH</sup> AVE SW  
CEDAR RAPIDS IA 52404**

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

**Appeal Number: 04A-UI-10441-DWT  
OC: 05/23/04 R: 03  
Claimant: Appellant (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, 4<sup>th</sup> 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 are 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-j – Temporary Employment Firm

STATEMENT OF THE CASE:

Craig A. Ray (claimant) appealed a representative's September 15, 2004 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Express Services, Inc. (employer) would not be charged because the claimant voluntarily quit by failing to contact the employer about his availability for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 18, 2004. The claimant responded to the hearing notice, but was not available for the hearing. A message was left for the claimant to contact the Appeals Section immediately, but the claimant did not again contact the Appeals Section. Celeste Staebler, a staffing service specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

#### FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant registered to work for the employer in June 2004. He received a copy of the employer's handbook on June 14, 2004. Information in the handbook informs employees that when a job assignment ends, the employee must contact the employer within three working days to see if the employer has another assignment for the employee. The employer also requires employees to contact the employer on a regular basis so the employer knows the employee is available for work.

The employer assigned the claimant to a job on June 21, 2004. The employer's client was not satisfied with the claimant's job performance and ended the assignment on August 21, 2004. The employer notified the claimant on August 21 and told him this assignment was over. During this conversation, the employer's representative obtained information about the claimant's work experience. As of August 21, the employer did not have any job to assign the claimant for which he was qualified to do.

The claimant established a claim for unemployment insurance benefits during the week of May 23, 2004. He reopened his claim the week of August 22, 2004. The claimant contacted the employer again about a job on September 15, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code §96.5-1-j.

The intent of Iowa Code §96.5-1-j is to give the temporary employment firm notice that an assignment has been completed so the temporary employee can be assigned another job and remain working. On August 21, 2004, the employer told the claimant his assignment had ended, but also reviewed the claimant's work experience with him. The employer did not have any job to assign to the claimant for which he was qualified to do. Under these facts, the claimant satisfied the requirements of Iowa Code §96.5-1-j. Therefore, as of August 22, 2004, the claimant is not disqualified from receiving unemployment insurance benefits.

The fact the claimant may not have contacted the employer again until September 15 does not establish that he was not available for work. Also, whether the claimant was able to and available for work was not an issue listed on the hearing notice.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

#### DECISION:

The representative's September 15, 2004 decision (reference 02) is reversed. The claimant and employer talked about another job assignment on August 21, 2004, the same day the

employer notified the claimant his assignment ended. As of August 21, 2004, the employer did not have another job to assign to the claimant for which he was qualified to do. As of August 22, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

dlw/pjs