

BEFORE THE
 EMPLOYMENT APPEAL BOARD
 Lucas State Office Building
 Fourth floor
 Des Moines, Iowa 50319

BRADLEY SILLS Claimant, and EXPRESS SERVICES INC	: : : : : : : : : : :	HEARING NUMBER: 08B-UI-03662 EMPLOYMENT APPEAL BOARD DECISION
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Employer.

SECTION: 10A.601 Employment Appeal Board Review

D E C I S I O N

FINDINGS OF FACT:

A hearing in the above matter was held April 30, 2008. The administrative law judge's decision was issued May 1, 2008. The administrative law judge's decision has been appealed to the Employment Appeal Board. The claimant was laid off from an assignment (Tr. 2) and called the employer within three days to inform him that he was in the hospital. (Tr. 3) It is unclear from this record whether the claimant has been separated from the employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 10A.601(4) (2005) provides:

5. Appeal board review. The appeal board may on its own motion affirm, modify, or set aside any decision of an administrative law judge on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The appeal board shall permit such further appeal by any of the parties interested in a decision of an administrative law judge and by the representative whose decision has been overruled or modified by the administrative law judge. The appeal board shall review the case pursuant to rules adopted by the appeal board. The appeal board shall promptly notify the interested parties of its findings and decision.

The employer testified that "... the client ended early so [the claimant] was laid off." (Tr. 2) Yet, nothing in this record establishes that the employer was, in fact, a temporary employment agency. And if so, whether or not the employer satisfied the "j" notification requirement set forth in Iowa law in order to

determine if a separation has occurred.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits: *Voluntary Quitting*. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

j. The individual is a temporary employee of 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.

Since the record of the hearing before the administrative law judge lacks substantial evidence upon which the Board can render a well-reasoned decision, this matter must be remanded for a new hearing.

DECISION:

The decision of the administrative law judge dated May 1, 2008, is not vacated at this time. This matter is remanded to an administrative law judge in the Workforce Development Center, Appeals Section for further action consistent with this decision. The administrative law judge shall conduct a new hearing following due notice. After the hearing, the administrative law judge shall issue a new decision, which provides the parties appeal rights.

John A. Peno

Elizabeth L. Seiser

AMG/fnv

Monique F. Kuester