

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA A HAYES
Claimant

APPEAL NO. 08A-UI-03262-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 02/03/08 R: 02
Claimant: Respondent (1)

Section 96.5-1-j – Voluntary Leaving – Temporary Employment

STATEMENT OF THE CASE:

The employer filed an appeal from a decision of a representative dated March 13, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 16, 2008. The claimant participated. The employer participated by Chrystal McBride, Personnel Supervisor.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer at a temporary assignment at Reece and Associates from January 27, 2008 until February 18, 2008 when she was temporarily laid off due to lack of work. Per the agreement between the parties Ms. Hayes contacted Express Services the next working day to inform the temporary service of her layoff and to seek other work. No work was available. The claimant periodically re-contacted Express Services Inc. and subsequently was again assigned to the Reece Associates' assignment on March 10, 2008.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

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.

871 IAC 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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of a temporary assignment. Although Reece and Associates temporarily ended Ms. Hayes' assignment with that client company, Ms. Hayes' relationship with Express Services Inc. continued. Express Services, Inc. was aware that Ms. Hayes was available for work as the employer was informed by Reece and Associates and by the claimant as well. Ms. Hayes contacted the temporary employment service within three working days as required. Although the temporary employment service's records do not show a contact during this period, the administrative law judge finds the claimant to be a credible witness and finds that her testimony was not inherently improbable. The administrative law judge notes that the claimant made regular entries into her calendar on the dates that she contacted the temporary employment service and that through her re-contacting the temporary service she was reassigned to Reece and Associates at a later date.

DECISION:

The representative's decision dated March 13, 2008, reference 01, is hereby affirmed. The claimant's separation from employment took place under nondisqualifying conditions. Benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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