

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JERRY D THOMPSON**  
Claimant

**APPEAL NO. 08A-UI-06269-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 02/10/08 R: 02  
Claimant: Respondent (1)**

871 IAC 24.1(113)a - Layoff

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated July 3, 2008, reference 02, that concluded the claimant was on a short-term layoff. A telephone hearing was held on July 22, 2008. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Kerri Peterson participated in the hearing on behalf of the employer. Official notice is taken of the employer's appeal letter, which shows the employer availability policy requires employees to contact the employer within 48 hours of completing an assignment. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

**ISSUE:**

Was the claimant laid off due to lack of work?

**FINDINGS OF FACT:**

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The employer's availability policy requires employees to contact the employer within 48 hours of completing an assignment. The claimant began working for the employer in 2005. The claimant worked for the employer on an assignment that ended on May 16. He next worked for the employer on May 21 and completed a one-day assignment. The next time the claimant worked was on two one-day assignments on May 29 and 30. He completed both assignments. The claimant filed an additional claim for benefits on May 30, 2008, which was made effective May 25, 2008.

The claimant next worked for the employer on June 10 and 11, for a total of about 8 hours at a rate of pay of \$10.00 per hour. On June 16, the employer left a message on the claimant's voice mail that they had work available. The claimant called back on June 17 and said that he had accepted a job with another staffing agency. The claimant stopped filing claims for benefits after the week ending June 21, 2008.

On June 24, 2008, the claimant informed the employer he had accepted a three-month position with Command Center. He returned to work for the employer in an on-going full-time assignment on June 30 and has been working for the employer ever since.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a. On the other hand completing a temporary work assignment is considered a layoff. 871 IAC 24.1(113)a and 24.26(22). The employer argued in its appeal letter that the claimant was subject to disqualification under Iowa Code § 96.5-1-j because he voluntarily quit employment by failing to maintain contact with the employer. First, the employer's rules, which require contact with the employer within 48 hours, do not comply with the statute that states the contact be made within three working days after completing a work assignment. Second, the employer has never treated the claimant as an employee who had voluntarily quit employment, as shown by the claimant working on nearly a weekly basis up until he stopped filing for benefits.

**DECISION:**

The unemployment insurance decision dated July 3, 2008, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw