

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THOMAS CROFT**  
Claimant

**APPEAL NO: 14A-UI-10320-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 08/31/14**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 29, 2014, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 22, 2014. The claimant participated in the hearing. The employer did not respond to the hearing notice by providing a phone number where it could be reached at the date and time of the hearing as evidenced by the absence of a name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The employer did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant worked for Dubuque Stamping in the shipping and receiving area. He wanted to move to a position as a printer and Dubuque Stamping instructed the claimant to go to Express Services and apply. He did so and was placed at Dubuque Stamping as a press operator July 21, 2014. Around the beginning of August 2014 the claimant applied for and was hired as a press automator. He worked in the position until he was laid off August 29, 2014. Dubuque Stamping told him it would bring him back in January 2015 to work in automation at that time when the business picked up. Dubuque Stamping also informed the employer of the claimant's layoff and that it planned to recall him in January 2015. The employer called the claimant September 2, 2014, and notified him he was laid off but Dubuque Stamping did want him to return to work for it in January 2015. The claimant told the employer he planned to file for unemployment insurance benefits and did so. His claim was effective August 31, 2014.

The claimant plans to return to Dubuque Stamping in January 2015 but is able and available for other work until that time. He never received the reassignment policy from the employer notifying him he had to report the end of his assignment to the employer within three business

days and seek further assignments from the employer. Additionally, the Department filed his claim as a temporary layoff and told him verbally and in writing he did not have to conduct a job search.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code § 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.

The claimant is waiting for recall to Dubuque Stamping as he was instructed by both Dubuque Stamping and the employer. The Department told him verbally and in writing he did not need to make a work search during this temporary layoff period. Finally, the claimant did not receive a copy of the notification and availability statement from the employer telling him he must notify the employer within three business days upon the completion of an assignment and seek further work from the employer. Even if he were required to seek additional work from the employer, because there is no evidence he was advised in writing of the notification requirement or advised in writing at the time of hire, 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 employer has not met the requirements of providing that information to the claimant. Accordingly, benefits are allowed.

**DECISION:**

The September 29, 2014, reference 03, decision is reversed. The claimant is able to work and available for work effective August 31, 2014. Benefits are allowed.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/pjs