

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN J NIEHAUS
Claimant

APPEAL NO. 07A-UI-04496-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 12/31/06 R: 03
Claimant: Respondent (2)**

Section 96.5-1-j - Quit after Temporary Work Assignment
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 25, 2007, reference 01, that concluded the claimant's separation from work was a short-term layoff. A telephone hearing was held on May 17, 2007. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Chris Wundram participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked full time as a machine operator assigned to Cope Plastics from January 15 to April 2, 2007. The claimant completed the work assignment.

The claimant did not contact the employer seeking another assignment within three working days as required by the employer's work rule. The claimant did not contact the employer until April 20, 2007.

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 31, 2006. He filed an additional claim for unemployment insurance benefits with an effective date of April 1, 2007. He filed for and received a total of \$1,670.00 in unemployment insurance benefits for the weeks between April 1 and May 5, 2007.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

Since the claimant did not contact the employer within three working days after completion of the work assignment and had been given a statement advising him of that requirement, the claimant is deemed to have voluntarily left employment without good cause attributable to the employer.

The next issue in this case is whether the claimant was overpaid unemployment insurance benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

As a result of this decision, the claimant is disqualified from receiving unemployment insurance benefits and was overpaid \$1,670.00 in unemployment insurance benefits for the weeks between April 1 and May 5, 2007.

DECISION:

The unemployment insurance decision dated April 25, 2007, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid \$1,670.00 in unemployment insurance benefits, which must be repaid.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs