

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA N NGUYEN
Claimant

APPEAL NO. 09A-UI-00997-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 11/30/08 R: 12
Claimant: Appellant (2)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Teresa N. Nguyen (claimant) appealed a representative's January 13, 2009 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Express Services, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 9, 2009. The claimant participated in the hearing and presented testimony from one other witness, Henry Tran. Jennifer Pylant appeared on the employer's behalf. Lan Nguyen served as interpreter. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant began taking assignments through the employer on September 10, 2008. Her final assignment began on September 15, 2008. She worked full time as a warehouse worker at the employer's Fort Worth, Texas business client through December 3, 2008. The assignment ended that date because the business client deemed the assignment to be completed. The business client informed the employer of the completion of the assignment on December 3, 2008. The employer's requirements for Texas assignments are that an employee must seek reassignment within 24 hours of the ending of the assignment to avoid being deemed a voluntary quit. With the assistance of her nephew, Henry Tran, the claimant separately contacted the employer on December 4, within 24 hours after the ending of the assignment, to report the ending of the assignment and to seek reassignment. She was told that the employer would call her if they had another job that might suit her.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment.

An employee of a temporary employment firm who has been given proper notice of a requirement to seek reassignment after the ending of the assignment can be deemed to have voluntarily quit her employment with the employer if she fails to contact the employer as required in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j. The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits.

Where a temporary employment assignment has ended by the completion of the assignment of and the employer is aware of the ending of that assignment, the employer is already on “notice” that the assignment is ended and the claimant is available for a new assignment; where the claimant knows that the employer is aware of the ending of the assignment, she has good cause for not separately “notifying” the employer. 871 IAC 24.26(19). Here, the employer was aware that the business client had ended the assignment; it considered the claimant’s assignment to have been completed. Further, regardless of whether the contact was appropriately documented, the claimant has established that she did make the requisite contact within 24 hours. The separation is deemed to be completion of temporary assignment and not a voluntary leaving. Benefits are allowed, if the claimant is otherwise eligible.

As the employment was entirely outside the state of Iowa, the employer’s chargeability for any benefits paid would be determined by the state in which those wage credits were accrued.

DECISION:

The representative’s January 13, 2009 decision (reference 02) is reversed. The claimant’s separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw