

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM A RICHTSMEIER**  
Claimant

**APPEAL NO. 09A-UI-05782-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 03/01/09**  
**Claimant: Respondent (1)**

Section 96.5(1)j – Temporary Employment

**STATEMENT OF THE CASE:**

Express Services, Inc. filed an appeal from a representative's decision dated April 1, 2009, reference 03, which held that no disqualification would be imposed regarding William Richtsmeier's separation from employment. After due notice was issued, a hearing was held by telephone on May 11, 2009. Mr. Richtsmeier participated personally. The employer participated by Andre Smith, General Manager.

**ISSUE:**

At issue in this matter is whether Mr. Richtsmeier was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Richtsmeier began working for Express Services, Inc., a temporary placement firm, in April of 2008. On May 6, 2008, he was placed on an assignment with Grand Reserve Apartments where he worked full time. The client company requested his removal from the assignment because of his attendance.

Mr. Richtsmeier was absent on January 30 and February 2 due to illness. He called Grand Reserve Apartments on January 30 and spoke to the maintenance person. He explained that he would be absent due to illness. He also indicated he would not have phone service until Monday or Tuesday of the following week and might not be able to call if he needed to be absent the coming Monday. He was absent on February 2 but did not call because he did not have a telephone. He reported to the job site on February 3 as scheduled. Someone from Express Services, Inc. went to the job site to advise him that the assignment was over.

Mr. Richtsmeier was in contact with Express Services, Inc. on February 4 and again on February 6 but was not offered further work on either date. He is still considered an employee of the firm but has not worked since February 3, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Richtsmeier completed his assignment with Grand Reserve Apartments as he worked until released from the assignment on February 3. He was in contact with Express Services, Inc. by February 6, three days after he completed the assignment. However, no further work was provided at that time. As such, he is entitled to job insurance benefits pursuant to Iowa Code section 96.5(1)j.

The administrative law judge has also considered whether Mr. Richtsmeier was discharged for misconduct. An individual who was discharged because of attendance is disqualified from benefits if he was excessively absent on an unexcused basis. In order for an absence to be excused, it must be for reasonable cause and must be properly reported. 871 IAC 24.32(7). The administrative law judge is not bound by an employer's designation of an absence as unexcused.

The employer does not dispute that Mr. Richtsmeier's absences of January 30 and February 2 were due to illness. However, the employer contended that he did not call on either day to report the intent to be absent. He testified that he called the maintenance person on January 30 to report the absence of that day and, at the same time, gave notice that he might be absent the following Monday if his illness continued. He made a good-faith effort to notify his assignment that he would be absent. He did not have a history of not reporting absences. For the above reasons, it is concluded that excessive unexcused absenteeism has not been established.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that Mr. Richtsmeier was separated from Express Services, Inc. on February 3, 2009 for no disqualifying reasons. Accordingly, benefits are allowed.

**DECISION:**

The representative's decision dated April 1, 2009, reference 03, is hereby affirmed. Mr. Richtsmeier was separated from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css