

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAXWELL TINEY

Claimant

APPEAL NO. 16A-UI-10665-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 08/07/16

Claimant: Respondent (1)

Section 96.5-1-j – Separation from Temporary Employer

Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Express Services (employer) appealed a representative's September 22, 2016, decision (reference 01) that concluded Maxwell Tiney (claimant) was eligible to receive unemployment insurance benefits as a result of his separation from work on August 4, 2016. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 14, 2016. The claimant participated personally. The employer participated by Valerie Hefel, Staffing Consultant. The employer offered and Exhibit One was received into evidence. Exhibits D-1 and D-2 were received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant started performing services for the employer on January 19, 2016. He signed a document on November 16, 2015, indicating he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant was given a copy of the document which was separate from the contract for hire.

The claimant was assigned to work at Progressive Processing from April 13, 2016, to August 4, 2016. The claimant was not hired as a permanent worker at Progressive Processing because he failed a pre-employment test. His assignment ended and he sought reassignment on August 8, 2016. The employer had no work available. The claimant filed for unemployment insurance benefits with an effective date of August 7, 2016. He received \$140.00 in benefits for the two week period ending August 20, 2016.

On August 22, 2016, the claimant was assigned to work at the Hotel Julian. The claimant worked there until his assignment ended on or about August 28, 2016. The employer did not

terminate him. During this period the claimant did not claim any unemployment insurance benefits.

Another assignment was offered on September 3, 2016. The claimant accepted the assignment but did not appear for work. Another assignment was offered to the claimant from September 14 to 16, 2016. The claimant accepted the assignment but did not appear for the work. He received \$210.00 in benefits for the three week period ending September 17, 2016. On September 29, 2016, the claimant said he was working for another employer. The claimant has not filed unemployment insurance benefits since September 18, 2016.

The claimant filed for unemployment insurance benefits with an effective date of August 7, 2016. He received a total of \$350.00 in unemployment insurance benefits. The employer participated personally at the fact finding interview on September 21, 2016, by Madi, Staffing Consultant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not separated from employment on August 4, 2016, for a disqualifying reason.

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Under the Iowa Code the employer must advise the claimant of the three day notice requirement and give the claimant a copy of that requirement. The notice requirement must be separate from the contract for hire. The employer followed the requirements of the code. The claimant requested reassignment. No work was available. Benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The representative's September 22, 2016, decision (reference 01) is affirmed. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs