

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VIET Q NGUYEN
Claimant

APPEAL NO. 08A-UI-10157-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 08/24/08 R: 02
Claimant: Respondent (1)**

871 IAC 24.1(113)a - Layoff

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 23, 2008, reference 01, that concluded Viet Nguyen completed his work assignment and contacted the employer within three days. A telephone hearing was held on December 11, 2008. The parties were properly notified about the hearing. Viet Nguyen participated in the hearing with the assistance of interpreter, Lena Huoang. Kerri Peterson participated in the hearing on behalf of the employer.

ISSUE:

Was Viet Nguyen laid off due to lack of work?

Did he contact the employer within three days after completing his work assignment?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. When Viet Nguyen 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. Nguyen's English language skills are poor and he does not read English, so he did not understand what he was signing.

Nguyen worked for the employer on an assignment from January 28 to March 3, 2008. He worked as a print operator at Regulus Group. Regulus Group informed the employer that it wanted Nguyen removed from the assignment due to unsatisfactory work performance. The branch manager informed him on March 3, 2008, that he was being removed from the assignment at Regulus Group. Despite this, Nguyen reported to Regulus Group on March 4, 2008, because he wanted to find out why Regulus Group did not want him working there anymore. He was sent home. The branch manager talked to him again and told him the employer would try to find another job for him. The branch manager also had a coworker who speaks Nguyen's language tell him not to return to Regulus Group. Afterward, Nguyen reported

to the branch office to talk to the manager about getting another job, but the receptionist told him that the manager was not available and they would call if there was a job for him.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. On the other hand, completing a temporary work assignment is considered a layoff. 871 IAC 24.1(113)a and 24.26(22).

The employer argued in its appeal letter that the claimant was subject to disqualification under Iowa Code § 96.5-1-j because he voluntarily quit employment by failing contact the employer within three days after completing his work assignment. First, the evidence fails to establish that the claimant understood the statement regarding this requirement. Second, I believe the claimant's conversations with the branch manager on March 3, and 4, 2008, satisfied the requirement of contacting the employer within three days seeking a new job assignment.

DECISION:

The unemployment insurance decision dated October 23, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw