

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ALEX HOLMES**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL NO. 19A-UI-06946-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/28/19  
Claimant: Respondent (2)**

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Iowa Code § 96.5(1j) – Voluntary Quitting – Temporary Employment  
Iowa Code § 96.5-2-a – Discharge for Misconduct  
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits  
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated August 22, 2019, reference 07, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 25, 2019. Claimant participated personally. Employer participated by Mimi Amwoza. Claimant failed to respond to the hearing notice and did not participate.

**ISSUE:**

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

Whether claimant was discharged for misconduct?

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: As claimant did not participate in the hearing all findings of fact are derived from employer's sworn testimony. The claimant was last assigned at Atlas Roofing from July 16, 2019, and was separated from the assignment, but not the employment, on July 23, 2019. Claimant did not request placement in a new assignment pursuant to the employer's notification requirement but no further assignments were available at the time. Employer stated that claimant signed for the receipt of a policy that complies with the specific terms of Iowa Code § 96.5(1j).

Employer stated that claimant did contact employer a week after the ending of the Atlas Roofing assignment when claimant requested additional assignments. Claimant did refuse the available work at that time.

Claimant in this matter has not received unemployment benefits.

Employer in this matter did substantially participate in fact finding through employer's representative giving pertinent information on the phone call with IWD.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. The plain language of the statute allows benefits for a claimant “who notifies the temporary employment firm of completion of an employment assignment *and* who seeks reassignment.” (Emphasis supplied.)

In this case, the claimant did not notify the employer of his availability or request another assignment within three days of the finish of the previous assignment and, therefore, is considered to have quit the employment, even though he may have returned to work for the temporary agency at some later date. Benefits are denied.

Any benefits received in this matter are overpayments.

Employer is not responsible for any overpayments received by claimant as employer substantially participated in fact finding.

**DECISION:**

The decision of the representative dated August 22, 2019, reference 07, is reversed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant’s weekly benefit amount, provided claimant is otherwise eligible. Employer’s account shall not be charged for any unemployment benefits received by claimant.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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