

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN C KINNEY
Claimant

APPEAL NO. 09A-UI-15792-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 09/06/09
Claimant: Respondent (1)

Section 96.5-1-j –Separation From Temporary Employment Services

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated October 9, 2009, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on November 24, 2009. The claimant participated. The employer participated by Erin Rohwer, staffing consultant. The record consists of the testimony of Erin Rohwer and the testimony of Brian Kinney.

ISSUE:

Was the claimant's separation from a temporary employment service a disqualifying event?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer in this case is a temporary employment agency. The claimant accepted an assignment from the employer to work at Wells Fargo on January 26, 2009. This was an office job where the claimant helped prepare mortgage documents. On July 8, 2009, the claimant was told that his assignment had ended. The next day, the claimant called the employer and asked for another assignment. He was informed that no work was available. The employer had a policy that the claimant was required to call for an assignment within three days after an assignment ended. The claimant complied with this policy.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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. 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.

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.

For the purposes of this paragraph:

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

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

The evidence in this case established that the claimant contacted his employer within three days after his assignment ended with Wells Fargo. The claimant complied with the employer's policy and was informed that no work was available. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The representative's decision dated October 9, 2009, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw