IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

DAVID L HAWKINS
Claimant

EXPRESS SERVICES INC
Employer

APPEAL NO. 13A-UI-01995-S2T

ADMINISTRATIVE LAW JUDGE DECISION

OC: 01/06/13
Claimant: Appellant (2)

Section 96.5-1-j – Separation from Temporary Employer

STATEMENT OF THE CASE:

David Hawkins (claimant) appealed a representative's February 14, 2013 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits due to his separation from work with Express Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 2, 2013. The claimant participated personally. Chiquita Joyner, the claimant's wife, observed the hearing. The employer participated by Jim Cole, Staffing Consultant.

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 performed services off and on from May 4 through December 6, 2012. He signed a document on April 24, 2012, indicating that 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 part of the contract for hire. The claimant completed his last assignment on December 6, 2012, and sought reassignment from the employer. The employer had no work available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was not separated from the employer for any disqualifying reason.

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.

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 cannot be a part of the contract for hire. The employer did not provide the claimant with the proper notice requirements and has, therefore, failed to satisfy the requirements of Iowa Code Section 96.5-1-j. Benefits are allowed.

DECISION:

The representative's February 14, 2013 decision (reference 02) is reversed. The claimant was separated from the employer for good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs