

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHAUNCEY S TUCKER**  
Claimant

**APPEAL NO. 17A-UI-00430-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 12/04/16**  
**Claimant: Respondent (1)**

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 5, 2017, reference 02, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's account could be assessed for benefits, based on the claims deputy's conclusion that the claimant's June 13, 2016 separation from the temporary employment firm for good cause attributable to the employer. After due notice was issued, a hearing was held on February 2, 2017. At the time of the hearing claimant Chauncey Tucker was not available at the number he provided for the hearing and did not participate. Tiffany Mills, Staffing Consultant, represented the employer. The administrative law judge took official notice of the following agency administrative records: WAGE-A, DBRO and of the materials from the January 4, 2017 fact-finding interview. The administrative law judge took official notice of the Exhibit 1, the End-of-Assignment Reporting Requirements document, was received into evidence.

**ISSUES:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

Whether the employer's account may be charged for benefits paid to the claimant.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Express Services, Inc. is a temporary employment agency. Chauncey Tucker most recently performed work for Express Services in a full-time temporary work assignment that started on June 10, 2016. On Monday, June 13, 2016, Tiffany Mills, Staffing Consultant, notified Mr. Tucker that the client business had decided to end the assignment. The client business' decision to end the assignment was not based on any allegation of misconduct in connection with the assignment. Instead, the decision to end the assignment was based on Mr. Tucker's work for the same client business at an earlier point through a different temporary employment agency. During the contact on June 13, 2016, neither Ms. Mills nor Mr. Tucker brought up the topics of whether Mr. Tucker was interested in a different assignment or whether the employer had another assignment for him. Mr. Tucker next made contact with Express Services on Friday, June 17,

2016. Mr. Tucker's contact with the employer on that day was limited to inquiring about his paycheck.

On April 14, 2016, the employer had Mr. Tucker sign an End-of-Assignment Reporting Requirements document. The document stated as follows:

I agree to call my Express Supervisor at the end of each job assignment. If I do not call within three (3) working days from the end of an assignment, Express can consider me to have voluntarily quit. To make sure that Express knows I am available for work when I am not on an assignment, I will call in at least once a week to let Express know I am available.

I understand and agree to these terms and conditions.

The document that the employer had Mr. Tucker sign did not mention potential disqualification for unemployment insurance benefits if Mr. Tucker failed to contact the employer within three working days of the end of the assignment. The document also did not state that Mr. Tucker was required to ask for a new assignment. The employer did not provide Mr. Tucker with a copy of the End-of-Assignment Reporting Requirements document he had signed. Instead, the employer provided Mr. Tucker with an employee handbook that referenced the policy along with many others.

Workforce Development records indicate that after Mr. Tucker separated from this employer, and before he established the claim that was effective December 4, 2016, he worked in and was paid wages for insured work equaling 10 times his \$162.00 weekly benefit amount.

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

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.

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The evidence in the record establishes that a separation on June 13, 2016 that was for good cause attributable to the temporary employment agency. The claimant's June 13, 2016 separation from the assignment was not based on misconduct in connection with the assignment or the underlying employment. See Iowa Code section 96.5(2)(a) (regarding discharges for misconduct). The employer's End-of-Assignment Reporting Requirements policy statement does not satisfy the requirements set forth at Iowa Code section 96.5(1)(j) because the policy statement did not mention potential disqualification for unemployment insurance benefits if Mr. Tucker failed to contact the employer within three working days of the end of the assignment. The employer further failed to comply with the statutory requirements by not providing Mr. Tucker with a copy of the document he had signed. Providing the claimant with a handbook containing many policy statements did not provide the notice required by the statute. Because the employer did not satisfy the requirements the statute imposed on the employer as a precondition to application of the statute to Mr. Tucker's employment, the statute did not apply to Mr. Tucker's employment and cannot serve as a basis for disqualifying him for unemployment insurance benefits. Because the statute did not apply, Mr. Tucker fulfilled the contract of hire when he completed the assignment on June 13, 2016 and was thereafter under no obligation to seek additional assignments through the employer.

Because Mr. Tucker's June 13, 2016 separation was for good cause attributable to the temporary employment agency, the separation did not disqualify Mr. Tucker for benefits and the employer's account shall not be relieved of liability for benefits paid to Mr. Tucker.

Even if the June 13, 2016 separation had disqualified the claimant for benefits, he has requalified for benefits prior to establishing the December 4, 2016 claim by working in and being paid wages for insure work equal to 10 times his weekly benefit amount. See Iowa Code section 96.5(1)(g) (regarding requalification for benefits).

**DECISION:**

The January 5, 2017, reference 02, decision is affirmed. The claimant's June 13, 2016 separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits provided he is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/rvs