

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIFFANY M MINNICK
Claimant

APPEAL NO: 14A-UI-06194-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 05/11/14

Claimant: Respondent (1/R)

Section 96.5-1-j – Temporary Employment
871 IAC 24.26(19) – Temporary Employment

STATEMENT OF THE CASE:

Express Services, Inc. (employer) appealed a representative's June 4, 2014 decision (reference 01) that concluded Tiffany M. Minnick (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 29, 2014. A review of the Appeals Section's conference call system indicates that the claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Mandy Kruse appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was there a disqualifying separation from employment?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant's first and to date only assignments through the employer began on August 12, 2013. She worked full time as a business development representative at the employer's Dyersville, Iowa business client through May 12, 2014. The assignment ended that date because the business client determined to end the assignment. The assignment had been intended as being on a temp-to-hire basis, but because of interpersonal conflicts between the claimant and another employee the business client determined that it did not wish to hire the claimant on a permanent basis, and therefore determined to end the assignment. The business client informed both the employer and the claimant of the ending of the assignment on May 12, 2014. The claimant communicated with Kruse, the branch manager of the employer's Dyersville office on that same date and discussed interest in seeking another assignment; there was not another assignment immediately available.

The employer provided some testimony that an offer of a new assignment might have been made to the claimant on May 28, 2014. The question of that possible offer of work and possible refusal has not yet been adjudicated.

REASONING AND CONCLUSIONS OF LAW:

The essential question in this case is whether there was a disqualifying separation from employment. An employee of a temporary employment firm who has been given proper notice of the requirement can be deemed to have voluntarily quit his employment with the employer if she fails to contact the employer within three business days of the ending of the assignment in order to notify the employer of the ending of the assignment and to seek reassignment. Iowa Code § 96.5-1-j; Rule 871 IAC 24.26(19).

The intent of the statute is to avoid situations where a temporary assignment has ended and the claimant is unemployed, but the employer is unaware that the claimant is not working could have been offered an available new assignment to avoid any liability for unemployment insurance benefits. Here, the employer was aware that the business client had ended the assignment; it considered the claimant's assignment to have been completed, albeit not as successfully as desired. The evidence does not establish that the assignment was ended due to substantial misbehavior, as compared to inefficiency, unsatisfactory conduct, inadvertence, or ordinary negligence in an isolated instance, or a good faith error in judgment or discretion. *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984). Further, the claimant did seek reassignment immediately after being informed of the ending of the assignment. Benefits are allowed, if the claimant is otherwise eligible.

An issue as to whether the employer made a subsequent suitable offer of work to the claimant and whether the claimant refused such an offer arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue, as well as on the related issue of whether if there was a refusal, if it was for a good cause which might render the claimant unavailable for work. Rules 871 IAC 26.14(5); 871 IAC 24.24(4).

DECISION:

The representative's June 4, 2014 decision (reference 01) is affirmed. The claimant's separation was not a voluntary quit but was the completion of a temporary assignment. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

The matter is REMANDED for investigation and determination of the refusal and able and available issues.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs