

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY L SCHMIDT
Claimant

APPEAL NO. 08A-UI-01259-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 12/30/07 R: 02
Claimant: Appellant (2)**

Section 96.5(1)(j) – Voluntary Leave – Temporary Employment

STATEMENT OF THE CASE:

Jeffrey Schmidt filed a timely appeal from a January 28, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone on February 20, 2008. Mr. Schmidt participated in the hearing. Express Services, Inc. participated through Holly Burtness and Holly Eichman.

ISSUE:

The issue in this matter is whether the claimant voluntarily quit employment with this temporary employment service by failing to re-contact the temporary service within three days after the completion of an assignment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from October 16, 2007 until December 31, 2007 as a material handler assigned to work at Agri-Processing and was paid by the hour. On Monday, December 31, 2007, Mr. Schmidt was notified by Agri-Processing that his assignment was ended. Mr. Schmidt immediately opened a claim for unemployment insurance benefits that afternoon and contacted Express Services by telephone to inform them that the assignment had ended, to seek additional assignments and to verify the exact dates of his employment so that he could relay that information to Iowa Workforce Development. Shortly before 5:00 p.m. that afternoon the claimant also attempted to personally report to Express Services, however, found the office to be closed through the New Years' holiday.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant voluntarily left employment with good cause attributable to the employer.

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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of a temporary assignment. Although Agri-Processing ended Mr. Schmidt's assignment with that client company, employment with Express Services continued. Express Services was contacted by telephone by Mr. Schmidt on December 31, 2007 when the claimant reported that the assignment had ended, looked for additional assignments, and verified employment dates while he filed his claim with Iowa Workforce Development. Express Services was aware that Mr. Schmidt was available for work because the claimant had contacted the temporary employment service as required within three days in search of a new assignment. The temporary service was also aware that his assignment had ended because they had also contacted Agri-Processing.

The administrative law judge finds Mr. Schmidt to be a credible witness and finds that his testimony is not inherently improbable. Based upon the rush and confusion of the holiday season, the claimant's telephone contact may not have been noted by the temporary employment service. When Mr. Schmidt attempted to verify his phone contact by a personal visit that afternoon, he found the company offices had been closed shortly before 5:00 p.m. that

date. The administrative law judge concludes based upon the totality of the evidence that benefits should be allowed.

DECISION:

The representative's decision dated January 28, 2008, reference 01, is hereby reversed. The claimant is eligible to receive unemployment insurance benefits when his temporary employment came to an end when his most recent assignment ended and he contacted the temporary employment service within three days as required. Benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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