

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SILAS N TAYLOR

Claimant

APPEAL NO. 12A-UI-02745-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 01/01/12

Claimant: Appellant (2)

Section 96.5(1)(j) – Temporary Employment Separation

STATEMENT OF THE CASE:

Silas Taylor appealed from an unemployment insurance decision dated March 13, 2012, reference 01, that denied benefits. The decision erroneously referenced a January 1, 2012 separation date. A telephone hearing was scheduled for April 4, 2012. Neither party responded to the hearing notice instructions to provide a telephone number for the hearing and neither party participated in the hearing. Based on the appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Whether Mr. Taylor separated from Express Services, Inc., for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

The contents of the administrative file establish the following. The employer is a temporary employment agency. The claimant was in a long-term assignment from 2008 until February 1, 2012, when he was laid off from the assignment because the client business no longer needed his services. The claimant completed the work assignment. The claimant did not make further contact with the temporary employment agency.

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.

871 IAC 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 administrative law judge has carefully reviewed evidence in the record and concludes that the unemployment insurance decision previously entered in this case is incorrect and should be reversed. The administrative law judge notes that neither party participated in the March 12, 2012 fact-finding interview. The employer submitted documents in lieu of participating in the fact-finding interview. Nothing in the administrative file indicates that the employer had an end-

of-assignment notification policy that complied with the requirements of Iowa Code section 96.5(1)(j). Nothing in the administrative file indicates that the employer had the claimant sign a complying policy or that employer provided the claimant with a copy of a complying policy. Absent evidence indicating compliance with the statute, the employer cannot claim the benefit of the statute to disqualify the claimant for unemployment insurance benefits. The claimant fulfilled his obligation to the temporary employment agency on February 1, 2012, when he completed the assignment. The claimant had no further obligation to contact the employer or pursue work through the employer.

The claimant's February 1, 2012 separation from the assignment and the temporary employment agency was for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

DECISION:

The Agency representative's March 13, 2012, reference 01, decision is reversed. The claimant's February 1, 2012 separation from the assignment and the temporary employment agency was for good cause attributable to the employer. The claimant is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw