

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D BELL
Claimant

APPEAL NO. 07A-UI-10737-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 10-14-07 R: 02
Claimant: Appellant (1)**

Iowa Code § 96.5(1)j – Voluntary Leaving (Temporary Employment)

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 14, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 5, 2007. The claimant did participate. The employer did participate through Kerri Peterson, Manager.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: The claimant was last assigned to work at Rain and Hail Insurance Company as a clerical worker beginning on July 25, 2006 through April 11, 2007 when he was laid off after completing the assignment.

When the claimant arrived at Rain and Hail to work on the morning of April 11, 2007 he was told that he was being laid off due to lack of work at the end of the day. The claimant was told he was being laid off by an employee of Express Services. Express Services cannot place the claimant at Rain and Hail again as they will not have him back since they allege that after being told he was being laid off, the claimant proceeded to process paperwork incorrectly for the rest of the time he worked. The claimant denies intentionally performing his work incorrectly. The claimant left work at noon on April 11 because he was not feeling well.

After being laid off on April 11 the claimant did not contact Express Services again because he was engaged in self employed construction work. The claimant told Express Services he was performing construction work on the side during a May 17 conversation. On May 21, Express Services set up an appointment for claimant to interview with a prospective employer. The claimant cancelled the appointment and had no further contact with Express Services. When Express Services did not hear from the claimant again, he was placed on inactive status. After the claimant's assignment at Rain and Hail ended, the claimant failed to report to the employer within three working days as required by written policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

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. 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 § 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 § 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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for work at the conclusion of each temporary assignment so they may be reassigned and continue working. In this case, the claimant gave the employer no notice of his availability and, therefore, is considered to have quit the employment, even though claimant may have returned to work for the temporary agency at some later date. Benefits are denied.

DECISION:

The November 14, 2007, reference 01, decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css