

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEE MCLEMORE JR
Claimant

APPEAL NO: 11A-UI-06226-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 01/16/11
Claimant: Appellant (2)

Iowa Code § 96.5-1-j - Voluntary Quit of Temporary Employment

STATEMENT OF THE CASE:

Lee McLemore (claimant) appealed an unemployment insurance decision dated May 4, 2011, reference 03, which held that he was not eligible for unemployment insurance benefits because he was discharged from Express Services, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 8, 2011. The claimant participated in the hearing. The employer participated through owner Mike Schaul. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is disqualified for failure to contact the temporary employment agency within three working days after the completion of his assignment, when and if notified of this requirement at the time of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a temporary general laborer from November 8, 2010 through April 25, 2011. He was removed from several assignments due to performance and his inability to get along with co-workers. The claimant admitted he never contacted the employer to request additional work but denied that he was given any information at the time of hire about a requirement to check in for additional work.

The employer witness testified it requires employees to contact the employer within 48 hours after the completion of a job assignment to request a new assignment. No documentation was provided confirming the employer's notification policy requirements.

Both parties agree that the employer offered the claimant an assignment on April 28, 2011 but he could not accept it because he was in school. The claimant testified that Matt Timmerman told him he would be called when there was additional work but the claimant has never heard from the employer since that date.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a. The employer herein is a temporary employment agency and temporary employment agencies are governed by Iowa Code § 96.5-1-j, which places specific restrictions on both the employer and the employee with regard to qualification for unemployment insurance benefits after a voluntary separation.

An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after ending a job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule. The employer must also notify the individual that he may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j.

In the case herein, the employer's end-of-assignment notification policy does not satisfy the requirements of Iowa Code § 96.5-1-j. The claimant denies being told any of any notification requirements. The employer testified its employees are required to notify the employer within 48 hours of the completion of an assignment but the notification documentation was not provided for the hearing, and therefore, its contents cannot be verified. However, even relying on the employer's testimony, its notification policy does not satisfy the requirements of Iowa Code § 96.5-1-j and the claimant's failure to request additional work does not disqualify him from receiving unemployment insurance benefits. Benefits are allowed provided the claimant is otherwise eligible.

DECISION:

The unemployment insurance decision dated May 4, 2011, reference 03, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css