

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ADAM E HERMAN**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL NO. 19A-UI-09684-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/03/19**  
**Claimant: Respondent (1)**

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Iowa Code Section 96.5(1)(j) – Separation from Temporary Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the December 2, 2019, reference 03, decision that allowed benefits to the claimant provided he met all other eligibility requirements and that held the employer's account could be charged for benefits, based on the deputy's conclusion that the claimant separated from the temporarily employment firm on October 10, 2019 for good cause attributable to the employer. After due notice was issued, a hearing was held on January 7, 2020. Claimant Adam Herman participated. Dina Hillman represented the employer and presented additional testimony through Lizzy Wallace. The administrative law judge took official notice of the Benefits Bureau deputy's notes concerning the statement provided by Katy McMahon at the November 25, 2019 fact-finding interview.

**ISSUE:**

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Express Services, Inc. is a temporary employment agency that has a branch office in Ames. In September 2019, the employer placed Mr. Herman in a full-time, temporary work assignment at Sam's Club in Ames. The assignment was expected to last three months. The work hours were initially 6:00 a.m. to 3:00 p.m., Monday through Friday, but Sam's Club and Express Services subsequently changed the work hours to 2:30 p.m. to 10:00 p.m., Monday through Friday. Mr. Herman last performed work in the assignment on October 11, 2019. Sam's club ended Mr. Herman's assignment and the assignments of other Express Services employees early due to purported budget issues. Mr. Herman completed all the work that Sam's Club and Express Services had for him in the assignment. On the morning of October 10, 2019, Express Services representative left a voicemail message for Mr. Herman to let him know that the assignment would be ending on October 11, 2019 due to budget issues. Immediately thereafter, Ms. Wallace also sent a text message to Mr. Herman in which she referenced the voicemail message she had just left for Mr. Herman and stated the assignment was coming to a close. Ms. Wallace included her text message to Mr. Herman a statement that she would mark

Mr. Herman as available and start looking for other work for Mr. Herman. On October 11, Mr. Herman called Express Services to ask whether the employer had any more work for him. An Express Services representative told Mr. Herman there was no other work at that time. The Express Services representative did not document the contact. Mr. Herman called again on Monday, October 14, and was once again told there was no other work for him at that time. The Express Services representative did not document the contact.

Mr. Herman does not recall whether the employer had him sign anything at the start of his employment relationship with Express Services that would obligate him to contact the employer at the end of an assignment to request a new assignment. The employer has archived Mr. Herman's onboarding documents and does not know whether the employer had Mr. Herman sign a policy that would obligate him to contact the employer at the end of an assignment to request a new assignment.

### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(1)(j) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. (1) 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.

(2) 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.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Iowa Admin. Code r. 871-24.26(19) provides, in relevant part, as follows:

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 evidence in the record establishes an October 11, 2019 separation that was for good cause attributable to the employer. The employer presented insufficient evidence to prove that the employer complied with the notice requirements set forth at Iowa Code section 96.5(1)(j). Accordingly, Mr. Herman was not obligated to make further contact with the employer upon completion of the Sam's Club assignment to request a new assignment. Rather, Mr. Herman fulfilled the contract of hire on October 11, 2019 when he completed all the work that Express Services and Sam's Club had for him in the Sam's Club assignment. Mr. Herman's October 11, 2019 separation from the employer was for good cause attributable to the employer. Mr. Herman is eligible for benefits, provided he is otherwise eligible. The employer's account may be charged for benefits.

**DECISION:**

The December 2, 2019, reference 03, decision is affirmed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The separation occurred on October 11, 2019. The claimant is eligible for benefits provided he is otherwise eligible. The employer's account may be charged for benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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