

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRESA ANDREWS
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 18A-UI-04654-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/04/18
Claimant: Respondent (1R)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the April 9, 2018, (reference 01) unemployment insurance decision that allowed benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on May 8, 2018. Claimant participated. Employer participated through staffing consultant Nicole Shanks.

ISSUES:

Did claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a temporary staffing agency. Claimant was last assigned to work on September 14, 2017 until March 6, 2018, at Goodwill on a part-time basis. The assignment ended on March 6, 2018, because the work was completed. Employer informed claimant the assignment ended and claimant did not request another assignment.

Employer has a policy requiring employees to request another assignment within three days of an assignment ending. However, employer did provide claimant with a signed copy of the policy separate from the employee handbook or any other contract of employment.

On April 1, 2018, claimant began attending cosmetology school on a full-time basis. Claimant has been approved for Department Approved Training from April 29 through June 2, 2018. No initial decision has been issued by the Benefits Bureau of Iowa Workforce Development determining whether claimant was able to and available for work during the month of April 2018,

or alternatively, whether she is eligible for Department Approved Training during that time period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

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.

Since employer provided no evidence that it presented claimant with a signed, written copy of the reporting policy, claimant's recollection that she did not receive notice of the reporting policy is credible. Claimant was separated from employment with good cause attributable to employer.

DECISION:

The April 9, 2018, (reference 01) unemployment insurance decision is affirmed. The claimant's separation from employment was attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

REMAND:

The issue of whether claimant was able to or available for work, or alternatively, whether she was eligible for Department Approved Training during the four weeks ending April 28, 2018, is remanded to the Benefits Bureau for an investigation and initial determination.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/scn