

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MAURICE CULBERSON
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 21A-UI-08808-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/06/20
Claimant: APPELLANT (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1) j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.5(2) a – Discharge for Misconduct

STATEMENT OF THE CASE:

The March 29, 2021, claimant/appellant filed an appeal from the March 26, 2021, (reference 03) unemployment insurance decision that denied benefits based upon his voluntary quit from employment by failing to notify the temporary employment firm within three working days of the completion of his last work assignment. The parties were properly notified of the hearing. A telephone hearing was held on May 25, 2021. The claimant, Maurice Culberson, participated personally. The employer, Express Services, did not register for this hearing and did not appear either personally or through a representative.

ISSUES:

Did the claimant voluntarily quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was a temporary employee of a temporary employment firm, Express Services, Inc. Claimant began his employment at some point in 2015. At the time of hire, the claimant recalled completing various paperwork regarding his employment but could not specifically recall if he was provided a specific written policy relating to his responsibilities at the end of an assignment. Regardless, the claimant was aware of the requirement to phone in and request employment after each temporary assignment ended.

Claimant received his most recent job assignment from the employer to work full time at Ballotta. Claimant's job duties included assembly line work primarily painting metal doors. This job assignment began at some point in early 2021 and ended on February 7, 2021. The Claimant was notified by the employer via telephone that the job assignment had ended. During that call, the employer advised claimant it did not have another assignment for him at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the separation was with good cause attributable to the employer. Benefits are allowed.

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. (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:

Voluntary quit with good cause attributable to the employer and separations not considered 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 a new assignment to work shall not be

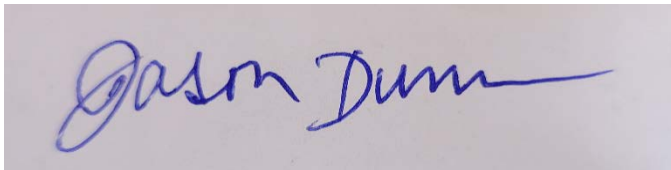
construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when the former employer makes an offer of work. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this sub rule 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 purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. As the employer notified the claimant the assignment was ending and advised him no work available, no disqualification is imposed.

As such, the claimant complied with Iowa Code section 96.5(1) j and he did not voluntarily quit without good cause attributable to the employer. Benefits are allowed.

DECISION:

The March 26, 2021, (reference 03) unemployment insurance decision is REVERSED. The claimant's separation from employment was not disqualifying. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Jason Dunn
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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June 7, 2021
Decision Dated and Mailed

jd/scn