

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JILL A FAULHABER
Claimant

APPEAL NO. 08A-UI-05263-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 04/27/08 R: 04
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

Section 96.5-1-j – Contact for Reassignment from Temporary Employment Service

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated May 30, 2008, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 16, 2008. Claimant participated. The employer participated by Michael Schaul, Company Owner.

ISSUES:

The issues in this matter are whether the claimant voluntarily quit or was discharged from temporary employment and whether the claimant voluntarily quit by failing to contact the temporary employment service within three working days for additional assignments.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this temporary employment service from August 27, 2007 until October 5, 2007 on a temporary assignment at the NICC Company as a full-time janitorial worker. Ms. Faulhaber was paid by the hour. Her contact person at Express Services was Michael Schaul.

Ms. Faulhaber was removed from her temporary assignment at NICC by Ron McClain who anticipated that the claimant would get notice and discharged her on October 5, 2007. Mr. McClain informed Express Services that the claimant's temporary assignment had ended. After being discharged from the client employer, Ms. Faulhaber complied with the agreement of hire by reporting to Express Services to report that the assignment had ended and to seek another work assignment. The claimant was specifically told that day that no other work assignments were available. Ms. Faulhaber contacted Express Services on a weekly basis for an extended period but was repeatedly informed that no work was available to her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant was separated from employment with good cause attributable to the employer.

Iowa Code section 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.

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 the temporary assignment. Although NICC ended Ms. Faulhaber's assignment with that client company, Ms. Faulhaber's relationship with Express Services Inc. continued. Express Services Inc. was aware that Ms. Faulhaber was available for work because NICC had informed them and because the claimant had followed the requirements of the agreement of hire by reporting to Express Services to personally inform them that the assignment had ended and to seek new work. The evidence in the record establishes that the claimant was informed that no work was available at that time. Although under no obligation to do so, the claimant continued to contact Express Services on a weekly basis for an extended period but was repeatedly told that no work was available.

As the assignment came to an end by action of the client employer through no fault of the claimant and no further work was available after the claimant contacted the employer within three working days as required, the administrative law judge finds that the claimant was separated due to lack of work under nondisqualifying conditions. Benefits are allowed.

DECISION:

The representative's decision dated May 30, 2008, reference 01, is hereby affirmed. The claimant was separated under nondisqualifying conditions. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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