

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

DARLENE M WEBER
Claimant

APPEAL NO. 19A-UI-05330-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 05/26/19
Claimant: Appellant (2)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment
Iowa Admin. Code r. 871-24.26(19) – Fulfillment of the Contract of Hire.

STATEMENT OF THE CASE:

Darlene Weber filed a timely appeal from the July 1, 2019, reference 04, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Weber voluntarily quit on March 5, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 29, 2019. Ms. Weber participated. Holly Eichmann represented the employer.

ISSUE:

Whether the claimant's March 5, 2019 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. Holly Eichmann owns and operates the Express Services branch located in Mason City. Claimant Darlene Weber established her employment relationship with the Mason City branch of Express Services in February 2018 and completed a temporary employment assignment in July 2018. Ms. Weber returned to the employment in February 2019, at which time Express Services placed her in a part-time, temporary assignment at Kinseth Hospitality in Clear Lake. Ms. Weber completed the assignment on March 5, 2019. Kinseth Hospitality ended the assignment without providing Express Services a reason for that decision. On March 5, 2019, Ms. Eichmann notified Ms. Weber that the assignment had ended. During that telephone call, Ms. Weber asked Ms. Eichmann for additional work. Ms. Eichmann told Ms. Weber that she did not have another position available for Ms. Weber at that time, but that she would keep Ms. Weber in mind.

The employer has an end-of-assignment notice requirement set forth in an employee handbook. The handbook is 15 pages, including the signature sheet that Ms. Weber signed. The employer did not have Ms. Weber sign a stand-alone policy regarding an obligation to contact the employer within three working days of completing an assignment to request a new assignment

or be deemed to have voluntarily quit and risk being disqualified for unemployment insurance benefits.

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:

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 provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule 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 evidence in the record establishes a March 5, 2019 separation that was for good cause attributable to the employer. The employer did not comply with the notice requirements set for that Iowa Code section 96.5(1)(j) and, therefore that subsection of the statute did not apply to Ms. Weber's employment. Accordingly, Ms. Weber fulfilled the contract of hire on March 5, 2019 by completing the work assignment and was not obligated to seek additional assignments through the employer. In any event, the claimant did indeed contact the employer within three working days to request a new assignment. Thus, even if Iowa Code section 96.5(1)(j) had applied, the claimant fulfilled her obligation under that statute. The claimant is eligible for benefits, provided she meets all other eligibility requirements. The employer's account may be charged.

DECISION:

The July 1, 2019, reference 04, decision is reversed. The claimant's March 5, 2019 separation from the temporary employment agency was for good cause attributable to the employer. The claimant is eligible for benefits provided she meets all other eligibility requirements. The employer's account may be charged for benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs