

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JERRY L OSTBY**  
Claimant

**APPEAL NO. 13A-UI-13155-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 10/20/13**  
**Claimant: Appellant (2)**

Section 96.5(1)j – Quit/Temporary

**STATEMENT OF THE CASE:**

The claimant, Jerry Ostby, filed an appeal from a decision dated November 20, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 18, 2013. The claimant participated on **his** own behalf. The employer, Express Services, participated by Staffing Consultant Jim Cole.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Jerry Ostby was employed by Express from June 20, 201 until October 2, 2013. During that time he was assigned to One Source Handling. That assignment ended July 31, 2013, when Kurt Lowe, the owner of the client business, told him he was done.

The employer's policy is that employees will be considered a voluntary quit if they do not contact the agency within three working days of the end of any assignment to request more work. The employer could not verify whether Mr. Ostby received notice of that policy. The claimant denied receiving any such notice and stated he had never been to the Express office for an orientation. His assignment at One Source was handled exclusively on site by Mr. Lowe.

The employer was "cleaning up" its files in October 2013 and noticed Mr. Ostby had not been assigned since July 31, 2013, and removed him from the system as a voluntary quit.

**REASONING AND CONCLUSIONS OF LAW:**

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 employer has not provided any documentation to support its contention the claimant received an orientation and the reporting policy as required by the provisions of the above Code section. The employer has failed to rebut the claimant's assertion he had not received the proper notice and was therefore unaware of the three-day reporting policy. He was therefore not required to report within three working days and this is not a disqualifying separation.

**DECISION:**

The unemployment insurance decision dated November 20, 2013, reference 01. is reversed. Jerry Ostby is qualified for benefits provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css