

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAWN M MCKIBBEN
Claimant

APPEAL NO. 10A-UI-00042-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**Original Claim: 11/22/09
Claimant: Appellant (2)**

Section 96.5(1)j – Temporary Employment

STATEMENT OF THE CASE:

Shawn McKibben filed an appeal from a representative's decision dated December 24, 2009, reference 01, which denied benefits based on his separation from Express Services, Inc. After due notice was issued, a hearing was held by telephone on February 11, 2010. Mr. McKibben participated personally. The employer participated by Holly Burtness, Staffing Consultant.

ISSUE:

At issue in this matter is whether Mr. McKibben was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. McKibben began working for Express Services, Inc., a temporary placement service, in November of 2008. From July 6 until November 6, 2009, he worked full-time on an assignment with MBM. He was laid off on November 6 due to lack of work and contacted Express Services by phone the same day. He was not offered additional work at that time.

Mr. McKibben filed a claim for job insurance benefits effective November 22, 2009. The average weekly wage paid to him during that quarter of his base period in which his wages were highest was \$963.27. He was contacted by Express Services on December 17 and offered an assignment with Graham Manufacturing. The job was for 40 hours each week and paid \$9.00 per hour.

REASONING AND CONCLUSIONS OF LAW:

Mr. McKibben was hired for placement in temporary work assignments. An individual so employed must complete his last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19), (22). It is undisputed that Mr. McKibben completed the last assignment he took prior to filing his claim for job insurance benefits. The employer acknowledged that he was in contact with the temporary placement firm within three working

days of the end of the assignment. For the above reasons, Mr. McKibben is entitled to job insurance benefits pursuant to Iowa Code section 96.5(1)j.

It is true that Express Services offered Mr. McKibben other work on December 17, 2009. The work was offered during the fourth week after he filed his claim for benefits. As such, it had to pay at least 100 percent of the average weekly wage paid to him during that quarter of his base period in which his wages were highest. In other words, the job had to pay at least \$963.27 in order to be considered suitable work. Because it only paid \$360.00 per week, it was not suitable work within the meaning of the law. As such, no disqualification may be imposed for the refusal. See Iowa Code section 96.5(3)a.

DECISION:

The representative's decision dated December 24, 2009, reference 01, is hereby reversed. Mr. McKibben was separated from Express Services, Inc. on November 6, 2009 for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw