

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYRONE B JEFFERSON
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 19A-UI-07898-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/05/19
Claimant: Respondent (1R)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

On October 10, 2019, the employer filed an appeal from the October 4, 2019, (reference 04) unemployment insurance decision that allowed benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on October 29, 2019. Claimant participated. Employer participated through employment specialist Sam Bandy.

ISSUES:

Did the claimant quit by not reporting for additional work assignments within three business days of the end of the last assignment?
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?
Can any charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a staffing firm. Employer has a policy stating that employees must call within three business days of an assignment ending to request another assignment. Claimant signed and was given a copy of the policy.

Claimant's most recent assignment with employer began on July 8, 2019. Claimant worked as a full-time assembler. The assignment ended on August 20, 2019. Express Services sent claimant a text message that day stating the assignment ended and they would be in touch to discuss other opportunities.

On August 22, 2019, claimant called the front desk and asked for another assignment. The person who answered the phone stated she would mark him eligible and employer would get back with him.

Employer offered claimant assignments on October 7 and 24, 2019, which claimant declined. The Benefits Bureau of Iowa Workforce Development has not issued an initial decision on whether claimant declined a suitable offer of work on those dates.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment with good cause attributable to the employer.

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(15) provides:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual has good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer, or any other currently acceptable means of communications. Working days means the normal days in which the employer is open for business.

In this case, claimant did contact employer within three business days of his assignment ending to seek reassignment. Employer acknowledges claimant called on August 22, but its notes on the phone call do not say claimant sought reassignment. The person who took the phone call on behalf of employer on August 22, 2019, did not appear at the hearing. Claimant did appear and testified he sought reassignment. I find that testimony credible. Therefore, claimant's separation from employment is with good cause attributable to employer.

There are remaining issues of whether claimant later declined suitable offers of work. Those issues will be remanded to the Benefits Bureau of Iowa Workforce Development for initial investigations and decisions.

DECISION:

The October 4, 2019, (reference 04) decision is affirmed. The claimant's separation from employment was attributable to the employer. The claimant had adequate contact with the employer about his availability as required by statute. Benefits are allowed, provided the claimant is otherwise eligible.

REMAND:

The issues of whether claimant declined suitable offers of work with employer on October 7 and October 24, 2019, are remanded to the Benefits Bureau of Iowa Workforce Development for initial investigations and decisions.

Christine A. Louis
Administrative Law Judge
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Decision Dated and Mailed

cal/scn