

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNI M TUCKER
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 19A-UI-09643-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 11/03/19
Claimant: Respondent (1)

Iowa Code § 96.5(1)(j) – VQ – Temporary employment firm
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:

Employer filed an appeal from the November 26, 2019 (reference 03) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 22, 2020, at 3:00 p.m. Claimant did not participate. Employer participated through Carrie Cannon, Lead Industrial Recruiter. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.
Whether claimant was overpaid benefits.
Whether claimant should repay those benefits and/or whether employer should be charged due to its participation in the fact-finding interview.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed periodically by Express Services, Inc., a temporary employment firm. Claimant's most recent assignment from employer was a one-day assignment as a concession stand worker for Five Flags Center in Dubuque, Iowa on July 9, 2019. While claimant's assignment with Five Flags Center ended, her employment with Express Services, Inc. did not; claimant is still eligible for assignments through employer. On July 12, 2019, claimant requested another assignment from employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment is not disqualifying. Benefits are allowed provided claimant is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.26(15) 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:

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 had 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 accepted means of communications. Working days means the normal days in which the employer is open for business.

On July 9, 2019, claimant's assignment at Five Flags Center ended. Claimant requested a new assignment on July 12, 2019. Because claimant requested a new assignment within three days

of the assignment ending, claimant is not disqualified. Benefits are allowed provided claimant is otherwise eligible. Because claimant's separation was not disqualifying, the issues of overpayment, repayment and chargeability are moot.

DECISION:

The November 26, 2019 (reference 03) unemployment insurance decision is affirmed. Benefits are allowed provided claimant is otherwise eligible. The issues of overpayment, repayment and chargeability are moot.

Adrienne C. Williamson
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Decision Dated and Mailed

acw/scn