

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW E MILTENBERGER
Claimant

APPEAL NO: 12A-UI-03045-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 01/29/12
Claimant: Respondent (2/R)

Iowa Code § 96.5(1)j – Completion of an Assignment with a Temporary Staffing Firm

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 21, 2012 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's February 6, 2012 employment separation was for nondisqualifying reasons. The claimant responded to the hearing notice, but was not available for the hearing. When he was not available for the scheduled hearing, a message was left for him to contact the Appeals Section immediately to participate in the hearing. The claimant did not respond to this message. Matt Timmerman, the owner, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes that as of February 5, 2012, the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, did the employer discharge him for work-connected misconduct, or did the claimant fail to contact the employer within three days of completing a job to ask the employer for another assignment?

FINDINGS OF FACT:

The claimant registered to work with the employer in May 2011. The claimant received information that after he completed an assignment, he was required to contact the employer within three work days for another assignment. Between May 2011 and February 3, 2012, the employer assigned the claimant to several assignments. After he completed these assignments, he contacted the employer for another assignment.

The claimant's most recent assignment began on February 3, 2012. When he accepted the assignment, the claimant knew he would only be working a few days. The claimant completed this assignment on February 6, 2012.

Although the claimant did not contact the employer, the employer contacted him on February 16, 2012, about another job. The employer understood the claimant accepted this job

that was to begin on February 20, 2012. The claimant did not go to this assignment and has not contacted the employer again.

The claimant established a claim for benefits during the week of January 29, 2011. He has filed for and received benefits since February 5, 2012.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5(1)j.

The claimant knew or should have known he was required to contact the employer by February 9 to ask about another job and he did not do this. For unemployment insurance purpose he is disqualified from receiving benefits as of February 5, 2012. This conclusion is supported by the fact the claimant did not go to a job he had accepted on February 16 that was to begin on February 20, 2012. Since the claimant is disqualified from receiving benefits for failing to contact the employer within three working days or by February 9, the issue of whether the claimant is disqualified for refusing the February 20 assignment will not be remanded to the Claims Section.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he may have received since February 5 will be remanded to the Claims Section to determine.

DECISION:

The representative's March 21, 2012 determination (reference 02) is reversed. The claimant failed to contact the employer within three days of completing an assignment to find out if the employer had another assignment for him. The claimant is disqualified from receiving unemployment insurance benefits as of February 5, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css