

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AGNES JELLEH
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 15A-UI-04234-KC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/15
Claimant: Appellant (2)

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 3, 2015, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 15, 2015. The claimant participated. The employer did not participate.

ISSUE:

Did the claimant quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a laundry aide for approximately four weeks in October 2014, as assigned for her temporary employment position,. On the same day that she was separated from the assignment, but not the employment, she requested another assignment. Her last assignment was full time at a meal company. She worked for two days, at the end of which, they no longer needed her services. The employer notified the claimant that the assignment had ended. She requested another assignment of the employer on or after the day she was notified that the assignment had ended. The employer advised her that there were no additional assignments available. She last worked on October 24, 2014, when her second assignment ended. Express Services informed her that she would be contacted when another position became available. She continued to contact the employer weekly. She did not receive another assignment.

While she requested an assignment either the day, or the day after, each assignment ended, she did not know that she must do so within three days of the end of an assignment. The claimant did not receive a written copy of the employer's policy and the claimant did not undergo an orientation process that identified those requirements.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was with good cause attributable to the employer.

Since employer provided no evidence that it presented claimant with a written copy of the reporting policy, claimant's recollection that she did not receive notice of the reporting policy is credible.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

The purpose of the statute is to provide notice to the temporary agency employer that the claimant is available for and seeking work at the end of the temporary assignment. She contacted the employer within three working days of the notification of the end of the assignment, requested reassignment, and there was no work available, consequently, benefits are allowed, provided she is otherwise eligible.

DECISION:

The April 3, 2015, (reference 01) decision is reversed. The claimant's separation from the assignment was not disqualifying and because she had adequate contact with the employer about her availability and requested further work as required by statute, the separation from the employment is also not disqualifying. Benefits are allowed, provided the claimant is otherwise eligible. The claimant is obligated to be available for work *and* make an earnest and active (*at least* two job contacts per week) search for work during each week she claims unemployment insurance benefits.

Kristin A. Collinson
Administrative Law Judge

Decision Dated and Mailed

kac/pjs