

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HERLONDA L CARTWRIGHT
Claimant

APPEAL NO. 08A-UI-01545-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 12/30/07 R: 12
Claimant: Appellant (2)

Iowa Code Section 96.5(1)(j) – Separation From Temporary Employment

STATEMENT OF THE CASE:

Herlonda Cartwright filed a timely appeal from the February 5, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 28, 2008. Ms. Cartwright participated and presented additional testimony from Felicia Monroe. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether the claimant's separation from the temporary employment agency was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a temporary employment agency. Herlonda Cartwright established her employment relationship with Express Services in 2005 and the employer placed her in three temporary employment assignments. The last assignment was at Rain and Hail Insurance Company, where Ms. Cartwright performed clerical work. Express Services had an onsite supervisor at the Rain and Hail Insurance workplace. At the end of the day on August 16, 2007, the Express Services representative notified Ms. Cartwright that the project to which she had been assigned was completed and that there was no other work for her at Rain and Hail Insurance. After this assignment ended, Ms. Cartwright maintained weekly contact with Express Services to inquire about additional assignments, but Express Services had no additional assignments for Ms. Cartwright.

Express Services has a written policy that requires employees to notify Express Services at the end of an assignment. The employer provided no evidence to establish that the written policy complied with the requirements of Iowa Code section 96.5(1)(j).

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Cartwright's separation from the temporary employment agency was for good cause accountable to the employer. It was.

Iowa Code section 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.

871 IAC 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 evidence in the record indicates that Ms. Cartwright was in direct contact with an Express Services representative at the time the assignment ended. The evidence indicates that Ms. Cartwright continued to express interest in further assignments, but that Express Services has no additional assignments available for her. The evidence fails to establish that employer's written notification policy complied with the requirements of Iowa Code section 96.5(1)(j). Accordingly, Iowa Code section 96.5(1)(j) does not apply and an election by Ms. Cartwright not to pursue further assignments with Express Services would not disqualify her for unemployment insurance benefits. Even if the evidence had shown that Iowa Code section 96.5(1)(j) did apply, the evidence indicates that Ms. Cartwright satisfied any obligations she might have had under the statute through her direct contact with the Express Services representative on the day the assignment ended.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Cartwright's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. Ms. Cartwright is eligible for benefits provided she is otherwise eligible. The employer's account may be charged for benefits paid to Ms. Cartwright.

DECISION:

The Agency representative's February 5, 2008, reference 01, decision is reversed. The claimant's separation from the temporary employment agency was for good cause attributable to the temporary employment agency. The claimant is eligible for benefits, provided she is otherwise eligible. The employer's account may be charged for benefits paid to the claimant.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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