

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDREW LUKES
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 21A-UI-10885-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/21/21
Claimant: Appellant (2)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5-1-j – Separation from Temporary Employer

STATEMENT OF THE CASE:

Andrew Lukes (claimant) appealed a representative's March 30, 2021, decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits after his separation from work with Express Services Inc (employer). A hearing was held on July 6, 2021 at 8:00 a.m. It was conducted jointly with 21A-UI-10884-SN-T. Official notice was taken of the administrative records.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that:

The employer is a temporary employment service. The claimant performed services from 2019 through April 14, 2020. The claimant did not sign a document, indicating he was to contact the employer within three days following the completion of an assignment to request placement in a new assignment. The claimant was only given a contract for hire. The claimant completed his last assignment on April 14, 2021. The claimant requested another assignment on that day, but he was told work was not available. The employer contacted him on the following day, April 15, 2021. The claimant requested an assignment during this phone call as well. The employer told him that work was not available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was separated from employment for a non-disqualifying reason.

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:

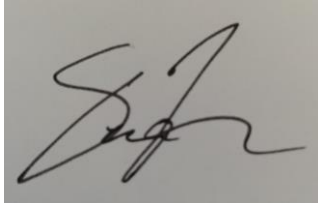
(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

Under the Iowa Code the employer must advise the claimant of the three-day notice requirement and give the claimant a copy of that requirement. The notice requirement must be separate from the contract for hire. The employer did not provide the claimant with the proper notice requirements and has, therefore, failed to satisfy the requirements of Iowa Code Section 96.5-1-j. Furthermore, the claimant contacted the employer the same day his assignment was terminated. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's March 30, 2021 decision (reference 01) is reversed. The claimant was separated from the employer for good cause attributable to the employer. Benefits are allowed provided the claimant is otherwise eligible.

A handwritten signature in black ink on a light gray background. The signature is stylized and appears to read 'Sean M. Nelson'.

Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 725-9067

July 15, 2021
Decision Dated and Mailed

smn/mh