

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CASSII-ADAIR W CALAWAY
Claimant

APPEAL NO. 12A-UI-12528-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 09/09/12
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Express Services, Inc. filed a timely appeal from a representative's decision dated October 12, 2012, reference 02, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on November 13, 2012. Although notified, the claimant did not participate. The employer participated by Ms. Jody Corleski, Staffing Consultant.

ISSUE:

The issue is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: The claimant was employed by Express Services, Inc. from July 16, 2012 until September 7, 2012. Mr. Calaway was last assigned to work at the SOST Bakery Company as a laborer. The claimant worked one day on September 6, 2012 before being separated from that assignment on September 7, 2012.

In his statement to Iowa Workforce Development, Mr. Calaway stated that he did not quit his most recent assignment with Express Services, Inc. but he was told that the job ended and that the temporary employer would let him know when another job was available. Claimant further stated that he had contacted Express Services, Inc. the next Monday, September 10, 2012 and asked for another assignment and was told that no other assignments were available at the time but that the temporary employer would call him.

The employer's witness, Ms. Corleski, testified that her only knowledge of the matter was based upon company records and that the claimant was "coded" by the company in a manner that indicated the claimant had left his assignment early. Ms. Corleski had no knowledge as to whether there was any further contact by Mr. Calaway and no firsthand information on the job separation itself.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant voluntarily left employment without good cause attributable to the employer. It does not.

Iowa Code section 96.5-1 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.

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 purpose of the statute is to provide the temporary agency employer notice that a claimant is available for work at the conclusion of a temporary work assignment. The claimant provided information to Iowa Workforce Development regarding his claim specifically stating that he did not quit but was notified by the employer that his assignment had come to an end after one day. Claimant further stated that he had followed the rule by contacting the temporary employment service employer within three working days to establish his availability for additional assignments.

The employer's witness in this matter had no firsthand information regarding Mr. Calaway or his claim. Ms. Corleski could only rely on coding entered on the claimant's file by an unknown individual leading the employer to conclude that the claimant had ended his assignment early.

As the provisions of the unemployment security law are to be liberally construed and the employer's witness had no further information of greater weight than the information provided by the claimant to the agency, the administrative law judge concludes that the evidence in the record is not sufficient to overturn the adjudicator's determination that the claimant's job separation took place under non disqualifying conditions.

DECISION:

The representative's decision dated October 12, 2012, reference 02, is affirmed. The claimant was separated for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs