

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRYAN R HAHN**  
Claimant

**APPEAL NO. 08A-UI-04900-NT**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 10/21/07 R: 02  
Claimant: Respondent (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer filed an appeal from a representative's decision dated May 15, 2008, reference 05, which held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was scheduled for and held on June 5, 2008. Although duly notified, the claimant did not participate. The employer participated by Holly Burtness.

**ISSUES:**

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant last worked for this employer on April 4, 2008. Mr. Hahn was assigned to work at Ampro, Inc., as a clean-up general laborer and was paid by the hour. Mr. Hahn left the continuing employment available to him at Ampro, Inc., on April 4, 2008, because he found the work to be "dirty." Mr. Hahn was advised of the nature of the assignment before he accepted it. Numerous other temporary employees were assigned to the same client employer performing the same duties. No other employees complained of the work environment or left employment.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Hahn left ongoing employment through Express Services, Inc., on April 4, 2008, for the generalized reason that he felt the work was "dirty." The evidence in the record establishes that the employer clearly explained the nature of the work and the assignment to Mr. Hahn and other workers before they were required to accept it. Mr. Hahn knew the nature of the work, the work location, and the name of the employer. The claimant became unemployed on April 4, 2008, when he chose not to continue working the assignment that was available to him, although he was aware of the nature of the work.

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.

Although the temporary service appears to be willing to attempt to find additional assignments for Mr. Hahn, the evidence in the record establishes that the claimant quit ongoing employment on April 4, 2008, when work continued to be available to him. His reasons for leaving were not attributable to the employer.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law. The claimant is overpaid benefits in the amount of \$394.00

**DECISION:**

The representative's decision dated May 15, 2008, reference 05, is hereby reversed. The claimant voluntary quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured worked equal to ten times the claimant's weekly benefit amount, provided he is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$394.00.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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