

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROBERT R STAFFORD
Claimant

EXPRESS SERVICES INC
Employer

APPEAL NO. 19A-UI-06670-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/05/19
Claimant: Respondent (1)**

Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
Iowa Code § 96.3-7 – Recovery of Overpayment of Benefits
871 IA Admin. Code 24(10) – Employer Participation in Fact Finding

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated August 12, 2019, reference 05, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 17, 2019. Claimant participated personally. Employer participated by Carrie Cannon.

ISSUE:

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

Whether claimant was overpaid benefits?

If claimant was overpaid benefits, should claimant repay benefits or should employer be charged due to employer's participation or lack thereof in fact finding?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was last assigned at Ulner Tool from June 26, 2019, and was separated from the assignment, but not the employment, on July 19, 2019. At the time the employer notified the claimant that the assignment had ended after claimant called into employer to tell them of his recent burn received at work. Claimant stated that he assumed that he no longer was employed by employer after being removed by Ulner Tool.

Claimant has received unemployment benefits in this matter.

Employer did not provide evidence or testimony that employer substantially participated in fact finding.

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.

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.

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.

Since employer provided no evidence that it presented claimant with a written copy of the reporting policy according to the specific terms of Iowa Code § 96.5(1)j, claimant was reasonable to opt to look for work elsewhere or to report for additional work when he did. Claimant did not have specific guidance that if he did not specifically request additional employment within three days of the ending of an assignment, he would be risking the receipt of unemployment benefits. Benefits are allowed.

The overpayment issue is moot.

The issue of employer participation is moot.

DECISION:

The August 12, 2019, (reference 05) decision is affirmed. The claimant's separation from employment was attributable to the employer as the employer did not provide instruction about what to do at the end of the assignment according to Iowa Code § 96.5(1)j. Benefits are allowed, provided the claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn