

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MEGAN L SWIGART**  
Claimant

**APPEAL NO. 08A-UI-04484-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 04/01/07 R: 02  
Claimant: Appellant (2)**

Section 96.5(1)j – Temporary Employment  
Section 96.6(2) – Timeliness of Appeals

**STATEMENT OF THE CASE:**

Megan Swigart filed an appeal from a representative's decision dated April 3, 2008, reference 06, which denied benefits based on her January 2, 2008 separation from Express Services, Inc. After due notice was issued, a hearing was held by telephone on May 22, 2008. Ms. Swigart participated personally. The employer participated by Keri Peterson, Manager.

**ISSUE:**

The first issue is whether Ms. Swigart filed a timely appeal. If the appeal is deemed to be timely, the issue then becomes whether she was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of this appeal was mailed to Ms. Swigart at her address of record on April 3, 2008. She did not receive the decision. She did not become aware of the disqualification until she received a summary decision dated May 6, 2008. She contacted her local office in response to the decision and was then advised of the earlier disqualification. Ms. Swigart filed an appeal on May 9, 2008.

Ms. Swigart initially began working through Express Services, Inc., a temporary placement firm, in 1998. She worked for Rain and Hail Insurance from November 13, 2007 until January 2, 2008. She was in contact with Express Services, Inc. on January 7 regarding further work. She next worked for Express Services, Inc. beginning March 18.

**REASONING AND CONCLUSIONS OF LAW:**

An individual has ten days in which to appeal from a representative's decision. Iowa Code section 96.6(2). Inasmuch as Ms. Swigart did not receive the disqualifying decision, she could not have perfected an appeal by the statutory deadline. She learned of the disqualification in a

determination dated May 6, 2008 and filed an appeal on May 9, 2008. Because she filed an appeal within ten days of when she was notified of the disqualification, her appeal is deemed timely filed. As such, the administrative law judge has jurisdiction over the separation issue.

Ms. Swigart was hired for placement in temporary work assignments. An individual so employed must complete the last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19). It appears undisputed that Ms. Swigart completed her assignment with Rain and Hail Insurance on Wednesday, January 2, 2008. She was in contact with the temporary placement firm the following Monday, January 7. The employer confirmed during the hearing that she was in contact on January 7. Because Ms. Swigart sought reassignment within three working days of the end of her assignment, she is entitled to benefits pursuant to Iowa Code section 96.5(1)j.

**DECISION:**

The representative's decision dated April 3, 2008, reference 06, is hereby reversed. Ms. Swigart was separated from Express Services, Inc. on January 2, 2008 for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css