

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JEREMY WALLACE**

Claimant

**EXPRESS SERVICES INC**

Employer

**APPEAL 20A-UI-01317-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/05/20**

**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Code § 96.5(1)J – VQ – Temporary Employment Firm

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, Available for, Work Search

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the February 6, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 2, 2020, at 1:00 p.m. Claimant participated. Employer did not participate. No exhibits were admitted.

**ISSUES:**

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

Whether claimant made a timely request for another job assignment.

Whether claimant is able to and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed by Express Services, Inc., a temporary employment firm, from September 2019 until his employment ended on December 18, 2019 or December 19, 2019. Claimant's sole assignment with Express Services, Inc. was as a full-time carpenter with Sheets General Construction in Maquoketa, Iowa. Claimant worked Monday through Friday from 6:00 a.m. until 3:30 p.m. Claimant's assignment ended due to claimant's attendance. On December 26 or 27, 2019, claimant contacted employer and requested a new assignment. Claimant did not request a new assignment within three days of his assignment ending, because he was not aware of the requirement. Claimant was not advised of the requirement in writing. Claimant does not recall signing an acknowledgment and did not receive a copy of any signed documents. If claimant had known of the requirement, he would have contacted employer immediately to request a new assignment.

Claimant has a vehicle, fuel and a valid driver's license. Claimant could also take public transportation or walk to work. Claimant has been able to and available for work since filing his original claim effective January 5, 2020.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from employment is not disqualifying and claimant has been able to and available for work since filing his original claim effective January 5, 2020. Benefits are allowed, provided claimant is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.26(15) 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:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would

include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(4) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

On December 26 or 27, 2019, claimant's assignment at Sheets General Construction ended. Claimant did not make a request for a new assignment within three days of the assignment ending. However, claimant was not notified of the requirement that he request a new assignment within three days. Because claimant was not notified of the requirement, he is not disqualified for benefits. Claimant has been able to and available for work since filing his original claim for benefits effective January 5, 2020. Benefits are allowed provided claimant is otherwise eligible.

**DECISION:**

The February 6, 2020 (reference 01) unemployment insurance decision is reversed. Claimant's separation was not disqualifying; and claimant has been able to and available for work effective January 5, 2020. Benefits are allowed, provided claimant is otherwise eligible.

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Adrienne C. Williamson  
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Decision Dated and Mailed

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