

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUANE P GARDNER
Claimant

APPEAL NO. 09A-UI-11194-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 06/28/09
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Duane Gardner filed an appeal from a representative's decision dated July 27, 2009, reference 01, which denied benefits based on his separation from Express Services, Inc. After due notice was issued, a hearing was held by telephone on August 20, 2009. Mr. Gardner participated personally and offered additional testimony from Harold Wessel and Lindsey Preston. The employer participated by Erin Rohwer, Staffing Consultant.

ISSUE:

At issue in this matter is whether Mr. Gardner was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Gardner was employed by Express Services, Inc., a temporary placement firm, from February 6 until June 22, 2009. He was assigned to work full time for Helena Industries. He was arrested during the early morning hours of June 21 and was not released from jail until the morning of June 25.

Mr. Gardner could not call the employer from jail and, therefore, was a "no call/ no show" June 22 through June 25. His girlfriend called Helena Industries on at least one of the days to report that he was in jail. Because of his incarceration, he was removed from the assignment. He went to the Express Services Office on June 25 to get his paycheck. He inquired about the availability of other work but none was available.

REASONING AND CONCLUSIONS OF LAW:

Mr. Gardner became separated from employment when he was arrested and confined to jail. Under such circumstances, he is presumed to have left employment without good cause attributable to the employer. See 871 IAC 24.25(16). Since this was the sole reason for Mr. Gardner's separation, he is not entitled to job insurance benefits.

DECISION:

The representative's decision dated July 27, 2009, reference 01, is hereby affirmed. Mr. Gardner was separated from employment for no good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs