

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA R SLAMA
Claimant

APPEAL NO: 19A-UI-05754-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 06/02/19
Claimant: Appellant (1)

Iowa Code section 96.5-1 – Voluntary Leaving
Iowa Code section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 1, 2019, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 15, 2019. The claimant participated in the hearing. Katie Larson, Operations Coordinator, participated in the hearing on behalf of the employer. Department's Exhibit D-1 was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct and whether the claimant sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on July 1, 2019. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by July 11, 2019. The appeal was not filed until July 19, 2019, which is after the date noticed on the disqualification decision. The claimant's apartment was condemned due to flooding and she had to begin getting her mail general delivery. She does not drive and depended on her mother for rides to the post office and was only able to get there once per week. Given the unusual facts of this situation, the administrative law judge finds the claimant's appeal is timely as she did appeal when she received the decision.

The claimant was employed as a part-time housekeeper for Express Services last assigned at Davenport River Center from August 31, 2018 to June 3, 2019. The claimant notified the client she was pregnant in September 2018 and told the client May 31, 2019, her labor was going to be induced June 3, 2019, and she would be on maternity leave following that procedure. The client told the employer it was taking the claimant off the schedule during her maternity leave until she was ready to return. The claimant did not contact the employer or the client when she was released to return to work and assumed her employment was terminated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without good cause attributable to the employer.

Iowa Code § 96.5-1 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.

Iowa Admin. Code r. 871-24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The claimant did not return to the employer to offer services after being released following maternity leave but instead assumed her employment was terminated because the client removed her from the schedule. The claimant was gone from June 3 to the beginning of August 2019 and it was not unreasonable for the employer to take her off the schedule during her maternity leave. Under these circumstances, the administrative law judge must conclude the claimant voluntarily left her employment without good cause attributable to the employer. Therefore, benefits must be denied.

DECISION:

The July 1, 2019, reference 01, decision is affirmed. The claimant's appeal is timely. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn