

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEANNETTE G CAMPBELL
Claimant

APPEAL NO. 12A-UI-05055-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 04/01/12
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 25, 2012, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 30, 2012. Claimant participated. Employer participated by Brandy Whittenbaugh, staffing consultant. Exhibits One and A through F were admitted into evidence.

ISSUES:

Whether claimant quit for good cause attributable to employer.

Whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on March 22, 2012. Claimant went off work due to a health issue. Claimant was released to return to work effective April 9, 2012. Claimant returned to ask for work April 17, 2012, because she had been in physical therapy until then. Claimant was not able and available for work until April 15, 2012.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a non-work-health issue. This is a quit for good cause, because claimant informed employer of the need to be off work and then returned when able to work full duty. Benefits allowed. Claimant was not able to work effective April 1, 2012 through April 14, 2012, because she was still under treatment.

Iowa Code section 96.5-1-d provides:

An individual shall be disqualified for benefits:

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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

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".

DECISION:

The decision of the representative dated April 25, 2012, reference 03, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Benefits shall be withheld effective April 1, 2012 through April 14, 2012, because claimant was not able and available for work. Claimant is eligible for benefits effective April 15, 2012.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw