

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA D REIBSAMEN
Claimant

APPEAL NO. 12A-UI-08193-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 05/27/12
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 June 27, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 31, 2012. Claimant participated. Employer participated by Jody Korleski, Staffing Consultant.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer. The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on August 24, 2011. Claimant completed his assignment. Claimant told employer that he was going back to school full time. Claimant started school August 28, 2011. Claimant was no longer available effective August 26, 2011 because claimant can only offer an irregular night schedule for employment. Claimant has little chance of obtaining full time work with this irregular night schedule.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because of lack of work. Benefits allowed.

However, claimant is not able and available for work. Claimant is in school full time. Claimant has removed himself from work times normally worked. The irregular schedule offered by claimant does not make him available for full-time work. Benefits withheld effective August 26, 2011.

Iowa Code section 96.5-1 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.

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 June 27, 2012, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Claimant is not able and available for work effective August 26, 2011. Benefits withheld effective August 26, 2011.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs