

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**GLENN OFFERMAN**  
Claimant

**APPEAL 20A-UI-15431-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 07/26/20  
Claimant: Respondent (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Overpayment Benefits  
IAC R. 871-24.10 – Employer Participation in Fact Finding  
Iowa Code § 96.5(1)j – Temporary Employment Firm

**STATEMENT OF THE CASE:**

The employer/appellant filed an appeal from the November 10, 2020, (reference 02) unemployment insurance decision that awarded benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 26, 2021. The claimant, Glenn Offerman, did not participate. The employer, Express Services Inc., participated through office manager, Sam Bandy. No exhibits were received.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant discharged for disqualifying job-related misconduct?  
Should claimant repay benefits and/or charge employer due to participation in fact finding?  
Did the claimant make a timely request for a new job assignment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time at Express Services Inc., a temporary employment firm located in Cedar Rapids, Iowa. Claimant was most recently assigned to Goodwill. He began his assignment with Goodwill on January 10, 2020. Claimant's assignment ended on January 28, 2020. On January 28, 2020, Express Services Inc., contacted Mr. Offerman to let him know and his assignment ended. Express services attempted to contact Mr. Offerman by leaving a message on Mr. Offerman's voicemail on January 30, 2020 to discuss another assignment, however, Mr. Offerman did not respond. On March 30, 2020 Express Services Inc again tried to contact Mr. Offerman, but learned he had moved to Des Moines, Iowa and was no longer in the area served by this Express Services office. Jenny Miller participated in the fact finding interview in this matter on behalf of the employer.

There was continuing work available if claimant had not voluntarily quit his employment. Claimant was not going to be discharged or laid off for lack of work.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case claimant did not submit an official resignation notice, however, claimant demonstrating his intent to quit by failing to respond to communication attempts made by the employer about new job assignments and by moving to a different region where employer was no longer able to provide job assignments to claimant. This case must be analyzed as a voluntary quit case and not a discharge case. Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(37) 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 § 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 § 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:

(37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

Iowa Admin. Code r. 871-24.25(2) 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 § 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 § 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:

(2) The claimant moved to a different locality.

The employer attempted to make contact with the claimant on January 28 and January 30 after his last work assignment ended to provide a new work assignment. Claimant did not respond. Instead, the employer received notice that the claimant had moved from Cedar Rapids to Des Moines. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

The next issue to be determined is whether claimant has been overpaid benefits. For the reasons that follow, the administrative law judge concludes claimant was overpaid benefits, which must be repaid.

Iowa Code section 96.3.(7) states:

*7. Recovery of overpayment of benefits.*

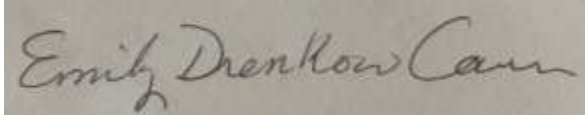
a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Because the qualifying decision has been reversed, benefits were paid to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid UI in the gross amount of \$2,688.00 for the period between August 1, 2020 and November 16, 2020. Claimant is required to repay those benefits.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The November 10, 2020 (reference 02) unemployment insurance decision is reversed. Claimant is voluntarily quit without good cause attributable to the employer. Benefits are denied. Claimant has been overpaid regular unemployment insurance benefits in the gross amount of \$2,688.00 for the period between August 1, 2020 and November 16, 2020, which must be repaid.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

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Emily Drenkow Carr  
Administrative Law Judge

February 16, 2021  
Decision Dated and Mailed

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