

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NICHOLAS A GROSS
Claimant

APPEAL NO: 08A-UI-03478-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 03/02/08 R: 03
Claimant: Appellant (1)**

Section 96.4-3 - Ability to and Availability for Work
Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Nicholas A. Gross (claimant) appealed a representative's April 3, 2008 decision (reference 01) that concluded he was not eligible to receive benefits because he was not available to work during the time Express Services, Inc. (employer) had work available for him to do. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 23, 2008. The hearing notice only listed employment separation as an issue. The claimant was not willing to waive his rights to advance notice regarding the availability issues. Another hearing was scheduled on May 7 to address the availability issue. The claimant participated in the April 23 hearing, but the phone number he provided had been disconnected for the May 7, 2008 hearing. Lisa Franzmeier was available for both hearings. Based on the evidence, the administrative record, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

Is the claimant able to and available for work as of March 2, 2008?

FINDINGS OF FACT:

The employer is a staffing service. The claimant registered to work for the employer's clients. The claimant started a job assignment on January 7, 2008. The last day the claimant worked at the assignment was February 29, 2008. On March 3, the claimant notified the employer he was unable to work because his car went into a ditch. On March 4, the claimant called to report he was ill and unable to work. On March 5, the client requested that the claimant be removed from the assignment because of on-going attendance issues.

The employer told the claimant on March 5 that his assignment had ended. Although the claimant asked for another job assignment, the employer did not have another assignment on

March 5. On March 6, the claimant gave the employer a new phone number to contact the claimant. The week ending March 10, the claimant took care of his mother three to four days because she was recovering from surgery.

On March 12, 2008, the claimant declined an offer of a long-term job assignment because he was taking care of his sick mother. The claimant did not contact the employer about another job assignment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The claimant's job assignment and employment ended on March 5. Although the client no longer wanted the claimant to work because he had been absent from work for several days, the employer planned to assign the claimant other jobs as jobs became available. The claimant did not commit work-connected misconduct. Therefore, the reasons for his employment separation on March 5, 2008, do not disqualify him from receiving benefits.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code section 96.4-3. The facts and record establish the claimant was ill and unable to work March 4 and 5. He also took care of his mother three or four days this week. When the employer called the claimant to offer him a long-term job assignment on March 12, the claimant declined because he was taking care of his ill mother and not available to work. Since the claimant did not participate in the March 7 hearing, it is not known how long the claimant was unable to work while providing care to his mother. As of March 2, 2008, the claimant is not eligible to receive benefits because he is not able to available for work.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's April 3, 2008 decision (reference 01) is affirmed. The claimant is not eligible to receive benefits as of March 2, 2008, because he is not able to or available for work. The claimant's March 5 employment separation does not disqualify him from receiving benefits because his assignment ended for nondisqualifying reasons. The claimant will be ineligible to receive benefits until he reopens his claim and establishes that he is able to and available for work.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs