

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DONTAVIS C BELL
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 20A-UI-05292-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/22/19
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code section 96.3(7) – Overpayment of Benefits
PL116-136, § 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

On June 4, 2020, Dontavis Bell (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 2, 2020 (reference 04) that denied benefits.

A telephone hearing was held on July 7, 2020. The parties were properly notified of the hearing. The claimant participated personally. Express Services Inc (employer/respondent) participated by Employment Specialist Mike Repp.

Official notice was taken of the administrative record.

ISSUE(S):

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause? Did claimant make a timely request for another job assignment?
- II. Was the claimant overpaid benefits?
- III. Is the claimant eligible for federal pandemic unemployment compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as temporary employee. Claimant's most recent assignment began December 5, 2019. Claimant had a no-call, no-show absence on January 29, 2020. Claimant called employer near the end of his shift that day to report he was absent, his phone was off, and as a result he could not call in. Claimant asked employer to call his assignment to see if he could return to work the following day. Employer did so, and claimant's supervisor at the assignment confirmed he could return to work the following day. However, employer was unable to reach claimant to tell him this, as claimant's phone was shut off and he was unavailable at the other phone number. Claimant was thus unsure of whether or not he could return to work

and did not go into work the following two days, January 30 and 31. These were no-call, no-show absences as well. He was discharged from employer due to having three consecutive, no-call no-show absences in violation of company rule.

Claimant has not received benefits since separating from employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the Iowa Workforce Development decision dated June 2, 2020 (reference 04) that denied benefits is **AFFIRMED**.

Iowa Code section 96.5(1)a 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 provides in relevant part:

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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Claimant had three consecutive no-call, no-show absences, in violation of company rule. This constitutes a voluntary quit without good cause attributable to employer.

Claimant's argument that he did not return to work because he did not know whether he could after the first absence is unavailing. Claimant cannot argue that he did not return to work because he was waiting to hear whether or not he could, while at the same time being essentially unreachable by phone to learn whether or not he could. Despite the phone issues, if claimant wished to preserve employment, he should have made further efforts to contact employer or the assignment. He also could have simply returned to work at his schedule start time to see if he could continue working. He did none of these things. Benefits must be denied.

DECISION:

The Iowa Workforce Development decision dated June 2, 2020 (reference 04) that denied benefits is **AFFIRMED**. Claimant's separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Fax (515) 478-3528

July 22, 2020
Decision Dated and Mailed

abd/mh

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for regular unemployment insurance benefits 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.