

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON T LAWLER**  
Claimant

**APPEAL NO. 15A-UI-02358-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 01/25/15**  
**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Jason Lawler filed a timely appeal from the February 17, 2015, reference 01, decision that disqualified him for benefits and that relieved the employer of liability for benefits, based on an Agency conclusion that the claimant had voluntarily quit on August 15, 2014 without good cause attributable to the employer. After due notice was issued, a hearing was held on March 24, 2015. Mr. Lawler participated. Chelsea Thompson represented the employer. The administrative law judge took official notice of the clerk of court records concerning Cerro Gordo case number AGCR022616, which records are available to the public at [www.iowacourts.state.ia.us](http://www.iowacourts.state.ia.us).

**ISSUE:**

Whether Mr. Lawler separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Express Services, Inc., is a temporary employment agency. Jason Lawler was employed by Express Services and most recently performed work for the employer in a full-time, temporary work assignment at Crescent Park in Mason City. That assignment started on August 12, 2014. Mr. Lawler most recently performed work in the assignment on August 27, 2014. The work hours were 6:00 am. to 4:25 p.m., Monday through Thursday, with some Friday and Saturday work. Mr. Lawler did not complete the assignment. Mr. Lawler subsequently left the employer a voicemail message indicated that he intended to appear for work the next week. However, Mr. Lawler did not appear for work the next week. At the time of the employment, Mr. Lawler was on probation in connection with a third-offense public intoxication conviction. On September 3, Mr. Lawler's probation officer applied to revoke Mr. Lawler's probation. On September 4, a judge issued an arrest warrant. On September 5, Mr. Lawler was arrested and incarcerated. Mr. Lawler's probation was revoked and Mr. Lawler remained incarcerated until January 26, 2015. Upon being released from custody, Mr. Lawler returned to the employer and indicated that he was available for another work assignment.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Admin. Code r. 871-24.25(16) 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 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:

(16) The claimant is deemed to have left if such claimant becomes incarcerated.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that the only reason the assignment came to an end was because Mr. Lawler faced revocation of his probation for a prior conviction, was arrested, and was incarcerated for an extended period. Under the administrative rule, a separation based on such circumstances is deemed a voluntary quit without good cause attributable to the employer. Mr. Lawler is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits.

**DECISION:**

The February 17, 2015, reference 01. decision is affirmed. The claimant voluntarily quit the employment effective August 27, 2015 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in a been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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