

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DONALD PAGE**  
Claimant

**APPEAL NO. 17A-UI-03997-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 03/05/17**  
**Claimant: Appellant (1)**

Section 96.5-1-j – Separation from Temporary Employer  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

Donald Page (claimant) appealed a representative's April 3, 2017, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits due to his separation from work with Express Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 5, 2017. The claimant participated personally. The employer participated by Jessica Dang, Lead Recruiter.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services from November 9, 2016, through February 17, 2017. On February 19, 2017, the claimant had a stroke and could not work. The employer learned of the claimant's medical condition a few days after February 19, 2017, from a friend of the claimant. It has had no communication with the claimant since February 17, 2017. The claimant does not think he is able to telephone or mail communication to the employer. He moved from Davenport, Iowa, to Waterloo, Iowa in March 2017. He has been attending physical therapy appointments and expects to be released to return to work on or about May 24, 2017.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

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(20) 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:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

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 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:

(2) The claimant moved to a different locality.

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). The claimant's intention to voluntarily leave work was evidenced by his actions. He was absent from work for personal reasons for more than ten working days and he moved away from the area. When an employee is absent from work for more than ten working days for compelling personal reasons and he moves away from the area, his leaving is without good cause attributable to the employer. The claimant left work for more than ten working days for medical reasons. In addition, he moved to another city. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The administrative law judge concludes the claimant is not able to work.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that medical condition, he is considered to be unable for work. The claimant has a medical condition and has not been released to return to work by his physician. He is considered to be unable to work after March 5, 2017.

**DECISION:**

The representative's April 3, 2017, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible. The claimant is not able to work as of March 5, 2017.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs