

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DIEGO P MONTENEGRO
Claimant

FEDEX GROUND PACKAGE SYSTEM INC
Employer

APPEAL 21A-UI-04150-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4R)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment

STATEMENT OF THE CASE:

The claimant/appellant, Diego P. Montenegro, filed an appeal from the January 20, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 5, 2021. The claimant participated. Treasure England, girlfriend of claimant, attended as an observer. The employer, FedEx Ground Package Systems Inc., participated through Dennis Mullens, hearing representative. Mark Perkins, operations manager, testified for the employer.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did claimant voluntarily quit the employment to accept other employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a package handler from October 2019 until February 8, 2020 until he quit the employment to accept new employment at Blue Beacon Car Wash. Continuing work was available to claimant with FedEx Ground Package System Inc.

Claimant performed work at Blue Beacon from February 20, 2020 until he permanently separated from employment in March 2020.

Claimant returned to FedEx Ground Package System Inc. in October 2020 and worked until he was discharged in December 2020. The issue of claimant’s permanent separation effective December 2020 has not yet been addressed by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant quit the employment to accept other employment. Benefits are allowed, and this employer is relieved of potential charges with the claim.

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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer. Accordingly, benefits are allowed and the account of this employer shall not be charged.

The issues of claimant's separation/requalification with Blue Beacon. and December 2020 separation with FedEx Ground Package System Inc. are remanded to the Benefits Bureau for investigation.

DECISION:

The unemployment insurance decision dated January 20, 2021 (reference 01) is modified in favor of the claimant/appellant. The claimant quit the employment for other employment. Benefits are allowed, provided he is otherwise eligible. . This employer is relieved of charges.

REMAND:

The issues of claimant's separation/requalification with Blue Beacon. and December 2020 separation with FedEx Ground Package System Inc. are remanded to the Benefits Bureau for investigation.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

April 12, 2021
Decision Dated and Mailed

jlb/lj

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.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>