

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSEPH K RUE
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 21A-UI-17992-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/27/20
Claimant: Respondent (4R)

Iowa Code § 96.5(1) – Voluntary Quit from Employment
Iowa Admin. Code r. 24.1(113) – Separations

STATEMENT OF THE CASE:

On August 16, 2021, employer Express Services, Inc. filed an appeal from the August 6, 2021 (reference 02) unemployment insurance decision that allowed benefits based on a separation from employment. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Wednesday, October 6, 2021. The claimant, Joseph K. Rue, did not register a telephone number at which to be reached. The employer, Express Services, Inc., participated through Casey Ebeling, Employment Specialist. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Has there been a separation from employment?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Express Services, Inc., on March 8, 2021. Throughout his employment, he worked full-time hours as a first-shift assembly worker assigned at client Winnebago Industries. The employer has no record of a separation occurring on May 21, 2021.

Claimant filed a claim for benefits for the one-week period ending July 10, 2021. He reported no wages that week and received his full benefit amount. Claimant did not participate in the appeal hearing, and the issues of whether claimant was able to and available for work that week or totally or partially unemployed that week could not be discussed, as proper notice of those issues was not given to the parties.

Claimant's employment ended on August 22, 2021, when he quit his employment with Express Services, Inc., to work directly for Winnebago Industries. This separation has not yet been adjudicated by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not separated from this employment.

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. 24.1(113) defines "separations" as follows:

All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.

c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.

d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

Here, there is no evidence in the record supporting a conclusion that claimant separated from employment on May 21, 2021. Ebeling testified while apparently consulting the employer's computer system containing claimant's employment records and had no record of any such separation. Therefore, the administrative law judge concludes a separation has not occurred.

The issues of whether claimant was totally, partially, or temporarily unemployed during the week ending July 10, 2021 and whether claimant's August 22, 2021, separation is disqualifying are remanded to the Benefits Bureau.

DECISION:

The August 6, 2021 (reference 02) unemployment insurance decision is modified in favor of the employer/appellant without prejudice to either party. Claimant was not separated from this employment at any time prior to the issuance of the August 6 decision.

REMAND:

The issues of whether claimant was totally, partially, or temporarily unemployed during the week ending July 10, 2021 and whether claimant's August 22, 2021, separation is disqualifying are remanded to the Benefits Bureau of Iowa Workforce Development for a fact-finding interview and unemployment insurance decision.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

October 8, 2021
Decision Dated and Mailed

lj/kmj