

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUKAS L ARMSTRONG
Claimant

APPEAL NO. 07A-UI-06303-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 05/20/07 R: 02
Claimant: Respondent (4)**

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 13, 2007, reference 04, decision that allowed benefits. After due notice was issued, a telephone conference hearing was held on July 11, 2007. Claimant did not participate. Employer participated through Melissa Cory.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a full time welder at Seneca from October 23, 2006 until February 28, 2007, when he was discharged from the assignment due to attendance issues and because he was ill-tempered and not getting along with others. Cory left a message for him to call and he returned the call the same day, but no work was available at the time. On March 9 employer found another position for him, but he said he had already found another welding job and would no longer be working for employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. 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.

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 the employer shall not be charged.

DECISION:

The June 13, 2007, reference 04, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 207332) shall not be charged.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw