

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JOSHUA D WILSON**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL 21A-UI-09842-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/07/21**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On April 3, 2021, Joshua Wilson (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated March 26, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on February 7, 2021.

A telephone hearing was held on June 23, 2021. The parties were properly notified of the hearing. The claimant participated personally. Express Services Inc (employer/respondent) did not register a number for the hearing or participate.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer in mid-August 2020. Claimant was hired as a temporary employee. His initial assignment was ended by the company he was assigned to on January 19, 2021. Employer offered claimant another assignment that same day. However, that assignment was for a PM shift, which did not work with claimant's schedule. Claimant contacted employer the following day and left a voicemail message informing it that the offered assignment would not work but he remained available for other assignments. He did not receive a call back from employer. He reached out to employer again the following Monday, January 25, 2021. He again did not hear back from employer and has not been offered further assignments since that time. Claimant had no intention of resigning.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the decision dated March 26, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on February 7, 2021 is REVERSED.

Iowa Code section 96.5(1) 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:

j. (1) The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

(2) To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

(3) For the purposes of this paragraph:

(a) "*Temporary employee*" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "*Temporary employment firm*" means a person engaged in the business of employing temporary employees.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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 administrative law judge finds claimant did not resign. Claimant had no intention of resigning. He reached out to employer within a day of his most recent assignment ending to request further assignment. He reached out again several days later. There is also no indication that claimant has been discharged. Employer offered claimant further assignment after the most recent assignment ending, and there is no indication that employer has informed claimant he has been discharged. There has therefore not been a disqualifying separation.

**DECISION:**

The decision dated March 26, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on February 7, 2021 is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible.



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Andrew B. Duffelmeyer  
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July 6, 2021  
Decision Dated and Mailed

abd/lj