

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL A PULLIAM**  
Claimant

**APPEAL NO. 07A-UI-07732-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 07/01/07 R: 03**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the August 6, 2007, reference 04, decision that denied benefits. After due notice was issued, a telephone conference hearing was held on September 13, 2007. Claimant participated. Employer participated through Connie Cooper.

**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 temporary forklift driver in the shipping department at Pickwick from January 29, 2007 until April 26, 2007, when he quit. He was out of town and his car broke down. He notified Laura, his supervisor at Pickwick, it would be a day or two before he returned to work, but he did not call Express as instructed. Laura told him to contact her when he got back. Upon his return he called Laura, who referred him to Express. Cooper notified him his assignment had ended because of the failure to contact Express about his absences.

On June 22, 2007, Cooper offered claimant an assignment at Adidas and paid him for training on June 22 for the long term job that was to start on June 25. Claimant called on June 24, Sunday night, saying he found another job (helping a friend with tree work for three or four days) and was not going to work at Adidas. He then called Express again the evening of June 26 and said he did not like the job he found and wanted to work with them again. Cooper told him he was not eligible for rehire because he quit the Adidas job without 24 hour notice and had no-call, no-show absences with Pickwick.

**REASONING AND CONCLUSIONS OF LAW:**

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

871 IAC 24.25(19), (27) 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 § 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 § 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:

(19) The claimant left to enter self-employment.

(27) The claimant left rather than perform the assigned work as instructed.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reasons for quitting in order to give the employer an opportunity to address or resolve the complaint. *Cobb v. Employment Appeal Bd.*, 506 N.W.2d 445 (Iowa 1993). Claimant was not required to give notice of his intention to quit due to an intolerable, detrimental or unsafe working environment if employer had or should have had reasonable knowledge of the condition. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

While claimant may have worked for his friend trimming trees on a cash basis for three or four days, he had already committed to work the Adidas job beginning June 25. Although he reported his availability for work late on June 26 for June 27 for the purposes of Iowa Code § 96.5(1)j, his leaving the assignment on June 24 was disqualifying and he had not yet earned ten times his weekly benefit amount (WBA) for the purposes of requalification. Benefits are denied.

#### **DECISION:**

The August 6, 2007, reference 04, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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