

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHANCE SUTTER**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL 20A-UI-15691-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/16/20  
Claimant: Respondent (5)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.3(7) – Overpayment of Benefits  
Iowa Admin. Code r. 871-24.10 – Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the November 19, 2020, (reference 01) unemployment insurance decision that granted benefits based upon the conclusion the claimant did not notify the employer within three working days of the completion of his last assignment. The parties were properly notified of the hearing. A telephone hearing was held on January 27, 2021. The claimant did not participate. The employer participated through Employment Specialist Amanda Berg.

**ISSUE:**

1. Did the claimant quit without good cause attributable to the employer?
2. Was the claimant overpaid benefits?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was last assigned by the employer, Express Services Inc, at US Name Plate from March 31, 2020, to July 16, 2020. On July 16, 2020, the claimant was offered and received a position at US Name Plate.

The employer, Express Services Inc, has a 48-hour notice requirement which requires employees to notify them of the end of an assignment or if they plan on leaving that assignment. The notice requirement is provided to each employee in writing. Each employee, including the claimant, acknowledges receipt of the 48-hour notice requirement prior to working their first assignment. This policy does not apply to an employee being hired by the worksite employer.

The administrative record shows the claimant was not paid benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer. The administrative law judge further concludes the claimant was not overpaid benefits.

Iowa Code § 96.5(1)j provides:

An individual shall be disqualified for benefits:

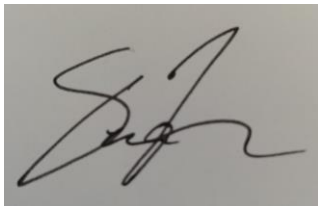
1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

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.

This is not a case in which the three day notice requirement is applicable. The claimant ended his employment when he received full time employment for the site employer. He then performed services for the site employer. The claimant is not required to repay benefits because he is eligible for benefits and has not been paid any benefits.

**DECISION:**

The November 19, 2020, (reference 01) unemployment insurance decision is modified with no change in effect. The claimant's separation was not attributable to the employer, but he is not disqualified from benefits because he secured employment and performed services for the subsequent employer. The claimant is not required to repay benefits because he is eligible for benefits and has not been paid any benefits.



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Sean M. Nelson  
Administrative Law Judge  
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February 11, 2021  
Decision Dated and Mailed

smn/ol