

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ARON BIGIZI
Claimant

APPEAL NO: 19A-UI-00138-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 11/11/18
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Leaving
871 IAC 24.26(19 & 22) – Voluntary Leaving

STATEMENT OF CASE:

The employer filed a timely appeal from the November 28, 2018, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on January 22, 2019. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. Sam Bandy, Employment Specialist, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time sorter for Express Services, Inc. last assigned to Republic Services from October 9, 2017 to December 21, 2017. Republic Services' policy states that employees will either apply to work for the company directly after 60 days or the employer will look for another assignment for the employee. The claimant reached the 60 day threshold and his assignment ended. The employer notified the claimant his assignment was over December 22, 2017, and asked if he wanted it to look for another assignment for him. The claimant stated he would like to think about it and get back to the employer but did not do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not disqualifying.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Iowa Admin. Code r. 871-24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The claimant was hired to work for 60 days and completed the contract of hire. The claimant's decision to wait before seeking another assignment is not considered a voluntary leaving of employment. The employer did not offer him a new assignment.

Under these circumstances, the administrative law judge must conclude the claimant did not voluntarily leave his employment and did not refuse a suitable offer of work as no offer of further work was made to the claimant. Therefore, benefits must be allowed.

DECISION:

The November 28, 2018, reference 02, decision is affirmed. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn