

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PAUL F GREEN**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL 21A-UI-07784-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/02/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On April 4, 2021, Paul Green (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated March 30, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on June 12, 2020 for personal reasons.

A telephone hearing was held on May 26, 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 Exhibits 1-4 were 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 on May 4, 2020. At that time he was assigned to full-time work at Heartland Ag in Ames. The last day claimant worked on the job was June 12, 2020. Claimant left employment at that time due to his doctor recommending a surgical procedure. He informed employer of the need for his leaving well in advance of it and subsequently kept it advised of his return status. The employer consented to the absence. He was released to return to work on November 9, 2020. He promptly informed employer of his release and attempted to return to work with employer at that time. However, no comparable work was available.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the Iowa Workforce Development decision dated March 30, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on June 12, 2020 for personal reasons 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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:

(6) Separation because of illness, injury, or pregnancy.

a. *Nonemployment related separation.* The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

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).

Claimant's departure from employment was voluntary and was without good cause attributable to employer. However, it is not disqualifying. This is because claimant left for a recommended surgical procedure; informed employer of the need to leave, to which the employer consented; returned to offer services upon recovery; but no suitable work was available at that time.

**DECISION:**

The Iowa Workforce Development decision dated March 30, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on June 12, 2020 for personal reasons 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  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

June 10, 2021  
Decision Dated and Mailed

abd/scn