

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS A WILDER
Claimant

APPEAL NO. 11A-UI-05683-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 03/06/11
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated April 14, 2011, reference 02, which denied unemployment insurance benefits, finding the claimant quit work on January 19, 2011, because he did not like working nights. After due notice was issued, a telephone hearing was held on May 25, 2011. The claimant participated personally. The employer participated by Ms. Holly Burtness.

ISSUE:

At issue is whether the claimant quit employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Carlos Wilder was employed by Express Services, Inc. and assigned to work at Stellar Industries. Mr. Wilder quit that job assignment on January 19, 2011, because he was injured and could not continue to perform the duties at that time. The claimant informed the employer of the necessity that he quit the assignment and the reasons for it. Subsequently, Mr. Wilder returned to the employer fully released in an attempt to resume employment with Express Services, Inc.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant quit employment under disqualifying conditions. He did not.

Iowa Code section 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.

Resignation due to a medical condition unrelated to the employment is not considered to be for good cause attributable to the employer. See Wolf's v. IESC, 244 Iowa 999, 59 N.W.2d 216 (Iowa 1953). Iowa Code section 96.5-1-d, enacted after the Wolf's decision, gives a claimant another method of requalifying after voluntary separation due to a medical condition unrelated to the employment. If the claimant returns to the employer with a release to return to work and the individual's work or comparable work is not available, the individual may receive unemployment insurance benefits.

Based upon the evidence in the record, the administrative law judge concludes that Mr. Wilder's voluntary separation due to a non-work-related medical condition is not disqualifying, as the claimant returned to the employer fully released and available for comparable employment. The claimant was fully released as of January 28, 2011, and is eligible to receive unemployment insurance benefits after that date, provided he has met all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated April 14, 2011, reference 02, is reversed. The claimant is eligible to receive unemployment insurance benefits effective the week ending February 5, 2011, provided he has met all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw