

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**THOMAS M YOUNKE**  
Claimant

**APPEAL NO. 16A-UI-11427-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 12/20/15**  
**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated October 14, 2016, reference 03, which denied unemployment insurance benefits finding that the claimant voluntarily quit work on September 26, 2016 for personal reasons. After due notice was provided, a telephone hearing was held on November 4, 2016. Claimant participated. The employer participated by Ms. Jodi Korleski, Staffing Consultant.

**ISSUE:**

The issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Thomas Younke was most recently employed by Express Services, Inc. from September 26, 2016, until September 27, 2016 when he voluntarily left employment. Mr. Younke was assigned to work as a "mixer" at the Michael's Cookie Company and was paid by the hour. His contact person at Express Services was Ann (last name unknown).

Mr. Younke accepted the assignment to work at Michael's Cookie Company based upon his reasonable belief that he would be able to perform the physical aspects of the job of a mixer based upon the information that had been given to him prior to the assignment. When the claimant arrived at the client location, however, he found that the lifting entailed raising 50-pound sacks of flour and other ingredients at least six feet off the ground and placing them on the top shelf, and repeating the process through the day.

Because of the physical nature of the work, Mr. Younke was unable to repeatedly lift the heavy ingredient bags and was temporarily assisted by another worker from time to time. Based upon the heavy lifting and the repetitive nature of the lifting required, Mr. Younke reasonably concluded that at his age he did not have the physical strength or stamina to continue in that job assignment. After completing the assignment for its first day, Mr. Younke reported to Express Services, Inc. the following day and explained that it was necessary for him to quit the assignment because he was physically unable to perform that type of work. Although the claimant inquired about other jobs at that time, no other assignments were available to him.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Admin. Code r. 871-24.26(23) 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:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

In the case at hand, the evidence establishes that the physical requirements of the job assignment that Mr. Younke accepted on September 26, 2016 was not represented to Mr. Younke correctly. When the claimant arrived at the client location, he found the physical requirements to be substantially more strenuous than explained to him at the time that he had accepted the job assignment. Mr. Younke found in addition to lifting 50-pound bags of ingredients throughout the workday he would also be required to lift them to a height of six feet or more and to do so on a repetitive basis. Because Mr. Younke was physically unable to maintain the pace of the work and the lifting that was required, he left the assignment properly notifying both the client and Express Services, Inc.

Although the administrative law judge concludes that Express Services, Inc. did not intentionally misrepresent the assignment, the administrative law judge nevertheless concludes that the claimant has established good cause for leaving attributable to the employer. Express Services, Inc. represented the assignment as best they could based upon the information that had been provided by the client. That information, however, did not reflect the true nature of the work that was required.

Mr. Younke has established good cause attributable to the employer for leaving employment. Accordingly, the claimant is eligible to receive unemployment insurance benefits, provided he is otherwise eligible. Mr. Younke inquired about a new job assignment on the date that he left and no other assignments were available to him at that time.

**DECISION:**

The representative's decision dated October 14, 2016, reference 03, is reversed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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