

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

WILLIE SMITH
Claimant

APPEAL NO. 15A-UI-08273-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 06/14/15
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Willie Smith filed a timely appeal from a representative's decision dated July 20, 2015, reference 01, which denied unemployment insurance benefits finding that the claimant voluntarily quit work on June 3, 2015 by failing to report to work for three days in a row and not notifying the employer of the reason. After due notice was provided, a telephone hearing was held on August 20, 2015. The claimant participated. The employer participated by Ms. Amie Meirick, Staffing Consultant.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge, finds: Willie Smith was employed by Express Services Inc. Mr. Smith began his last assignment through Express Services Inc. on April 14, 2015 and was assigned to work as a bindery department worker at Quad Graphics, a client-employer. Mr. Smith worked Mondays through Thursdays, ten hours per day and was paid per hour at the Quad Graphics assignment.

Mr. Smith was separated from his employment with Express Services and Quad Graphics on June 3, after he had failed to report to work for three consecutive days in a row and had not provided advance notification to the employer of his impending absences as required by company policy. Mr. Smith had requested to be off work for the whole week of May 24 and Express Services as well as the client-employer had approved Mr. Smith's request to be off work that week. The claimant was expected to report back to work on Monday, June 1, 2015. Mr. Smith did not contact Express Services or the client-employer until June 4, 2015 and at that time asked if he could still return to his assignment at Quad Graphics.

Company policy requires employees to request known time off three days in advance and requires employees to notify Express Services at least one hour before the beginning of the work shift if they are going to be unexpectedly absent on any workday.

It appears that Mr. Smith had initially expected to return from an out of town trip in time to report for work on Monday, June 1, 2015, but that changes in travel plans resulted in Mr. Smith not returning until three days after he had previously expected to return.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant voluntarily left employment without good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.25(4) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Employers are entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work and notify the employer for three consecutive workdays in violation of the employer's policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer.

The testimony in this case is disputed. The employer's witness testified with specificity as to the exact time that Mr. Smith called in and the information that he imparted to her during the call. In contrast, Mr. Smith's testimony varied widely and was often contradictory. The administrative law judge therefore finds the testimony of Ms. Meirick to be more credible and therefore accords the testimony of the employer's witness more weight in this matter. Because the claimant left employment without good cause attributable to the employer, benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

DECISION:

The July 20, 2015, reference 01, decision is affirmed. The claimant voluntarily left employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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