

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY L SHIRD**  
Claimant

**APPEAL NO. 08A-UI-00808-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 12-30-07 R: 04**  
**Claimant: Respondent (4R)**

Iowa Code § 96.5(1)a – Voluntary Leaving/Other Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 16, 2008, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on February 7, 2008. The claimant did participate. The employer did participate through Mike Schaul, Owner.

**ISSUE:**

Did the claimant voluntarily quit his employment to accept employment with another employer?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds:

The claimant was last assigned to work as a maintenance technician at Premier Tool beginning August 15, 2007 through November 29, 2007. On November 29, 2007, the claimant was hired by Premier Tool to be their own employee.

The claimant was later separated from Premier Tool on December 4, 2007. There has not been a fact finding held on the claimant's separation from Premier Tool. The claimant received paychecks totaling \$217.00 from Premier Tool prior to his separation. The claimant left employment with Express Services to accept other employment at Premier Tool. Continued work was available at Express Services had the claimant chosen not to go to Premier Tool.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment to accept employment elsewhere.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and did perform services for the subsequent employer and was separated after having started the new employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

REMAND: The separation issue delineated in the findings of fact is remanded for an initial review and determination.

**DECISION:**

The January 16, 2008, reference 01, decision is modified in favor of the appellant. The claimant voluntarily left his employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 207332) shall not be charged.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/css