

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL C WOODARD
Claimant

APPEAL NO: 13A-UI-01774-ST

EXPRESS SERVICES INC
Employer

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/03/12
Claimant: Appellant (2)

871 IAC 24.1(113)a – Lay-off
Section 96.5-2a – Discharge

STATEMENT OF THE CASE:

The claimant appealed a department decision dated February 11, 2013, reference 02, that held he voluntarily quit without good cause attributable to the employer on December 28, 2012, and benefits are denied. A telephone hearing was held on March 12, 2013. The claimant, and his mother, Jaundel Moore, participated. Valerie Hefel, Staffing Consultant, participated for the employer.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The employer is a temporary employment firm. The claimant worked for the employer on an assignment at Americold beginning July 2012. On December 28 the employer notified claimant of a temporary layoff expected to run from December 31 through January 4, 2013. On January 3 the employer was notified that work was slowing down and claimant would no longer be needed at that time.

Claimant was offered an accepted a temporary assignment at Premier Tool that he worked from January 11 to January 18. He later accepted an assignment at Americold where he worked January 24 and 25 and was injured in an auto accident. A doctor advised claimant should be off work for January 28 and 29. When he contacted the employer to return to work on January 30 there was no work available. Claimant has not been offered further work by the employer.

Claimant reported all wages he earned on employer assignments for period ending January 26 after he filed his December 30 UI claim.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The claimant was laid off for the week ending January 5, 2013 due to a lack of work on a regular job assignment that is an employment separation for no disqualifiable reason.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge concludes the claimant was discharged from employment on January 30, 2013 when the employer had no further work assignment for to offer him.

Claimant worked a primary job assignment and some temp assignments after the one-week layoff. The January 25 car accident/injury made claimant unavailable for work for two days, but he recovered and was available for work on January 30. The employer did not return claimant to work when he was released on January 30 that is an employment termination for no disqualifiable reason.

DECISION:

The department decision dated February 11, 2013, reference 02, is reversed. The claimant was laid off from his work assignment the week ending January 4, 2013, and discharged for no disqualifiable reason on January 30, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/tll