

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MENDY R WEARS
Claimant

APPEAL NO. 07A-UI-11249-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 10/28/07 R: 02
Claimant: Appellant (4)**

Section 96.5(1)a – Quit/Other Employment

STATEMENT OF THE CASE:

The claimant, Mendy Wears, filed an appeal from a decision dated November 27, 2007, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 19, 2007. The claimant participated on her own behalf. The employer, Express Services, participated by Manager Kerri Peterson.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Mendy Wears worked for Express Services beginning November 4, 2005. Her last assignment was offered to her by Manager Kerri Peterson for a two-week job at Emco to begin October 17, 2007. The claimant did not appear at the client company on October 17, 2007, because she was in the emergency room with a serious allergic reaction. She called and left a message at the office on Fleur Drive in Des Moines, Iowa. However, the assignment had been offered to her by a representative at the other office in the Des Moines area. The message was not relayed.

The claimant did not further contact the employer to find out if she should go to Emco on October 18, 2007, because she was offered a full-time job with another company which she accepted and was to begin on October 22, 2007. However, the day before she was to begin her new job the current occupant of the position decided not to resign after all and the new employer did not hire her.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

The claimant essentially quit Express because she did not contact anyone about a new job assignment or as whether she should continue with the one she had accepted. The reason she did not do this is because she had been offered, and accepted, a new job. The reason she did not actually work for the new employer was because the offer of work was revoked due to the vacancy not occurring as expected.

Ms. Wears has requalified under the provisions of the above Code and Administrative Code sections. However, the account of Express will not be charged.

DECISION:

The representative's decision of November 27, 2007, reference 01, is modified in favor of the appellant. Mendy Wears is qualified for benefits, provided she is otherwise eligible. The account of Express Services will not be charged with benefits paid to the claimant after October 18, 2007.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css