

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROY J CAMPBELL
Claimant

EXPRESS SERVICES INC
Employer

APPEAL NO. 14A-UI-03964-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/16/14
Claimant: Appellant (2)**

Iowa Code § 96.5-1 – Voluntary Quit
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 11, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 15, 2014. Claimant participated. Employer participated by Lori Omara, Branch Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer. The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on January 31, 2014. Claimant has diabetic feet. His doctor has not taken him off work due to diabetic-related feet problems. Claimant worked for employer one day at a time. Employer called claimant when they wanted him. Claimant told employer that he could not wear the steel toed boots required at the day labor job. Claimant completed the last day of work and elected not to accept further work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because the steel toed boots bothered his feet. Since claimant completed the last day of work and elected to not accept further assignment this is a quit for good cause attributable to employer pursuant to rule. Claimant is not obligated to accept a new assignment. This is not an ongoing assignment but day labor work. Benefits allowed.

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(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code § 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code § 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Claimant is able and available for work. The steel toed shoe problem is a permanent restriction but not in any way a restriction from work. Claimant is able and available for work.

DECISION:

The decision of the representative dated April 11, 2014, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Claimant is able and available for work.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css