

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIZABETH A NELSON
Claimant

APPEAL NO. 12A-UI-07107-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES
Employer

OC: 05/13/12
Claimant: Appellant (2)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Elizabeth Nelson, filed an appeal from a decision dated June 12, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 10, 2012. The claimant participated on her own behalf. The employer, Express Services, did not participate.

ISSUE:

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

FINDINGS OF FACT:

Elizabeth Nelson was employed by Express Services from June 2, 2011 until June 10, 2012. Her last assignment was one day at Anderson Windows on June 10, 2012. When Express Services contacted her for this assignment she was told she would be working in quality control.

When Ms. Nelson arrived at the client company she was assigned to lifting windows. She asked the supervisor, Aaron, how much the windows weighed and he told her 71 pounds. The claimant is under restrictions from her doctor not to lift more than 55 pounds and Express Services was aware of this. She told Aaron about the lifting restriction and he assigned her to other jobs in the facility which did not require her to lift more than 55 pounds. He did tell her, however, that jobs were usually rotated and in the future she might be expected again to lifting windows.

At the end of that day she went back to the Express Services office and told Account Manager Erin Johnston about the misunderstanding at Anderson Windows. Ms. Johnston had believed the assignment was for a quality control person and did not know Ms. Nelson would be expected to lift windows. She excused the claimant and told her to keep calling in each week and the company would try to find her another assignment.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.26(23) 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:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

The claimant quit the assignment because it had been misrepresented to her at the time she accepted it. From the comment made by supervisor Aaron, it appeared there would be no assurance she might not be expected to lift windows again at some point. Under the provisions of the above Administrative Code section, this is a voluntary quit with good cause attributable to the employer and the claimant is qualified.

DECISION:

The representative's decision of June 12, 2012, reference 01, is reversed. Elizabeth Nelson is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs