

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BILL J WORLEY
Claimant

APPEAL NO. 09A-UI-09200-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MURPHY OIL USA INC
Employer

**Original Claim: 07/20/08
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated June 18, 2009, reference 02, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 13, 2009. The claimant participated. The employer participated by Robin Byrd, manager. The record consists of the testimony of Bill Worley, the testimony of Sue Hines, and the testimony of Robin Byrd.

ISSUE:

Whether the claimant voluntarily left for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired full time as an assistant manager for the employer, which is an oil company. The claimant's work place included an outdoor area, where the gas pumps are located, and three indoor areas. One of the indoor areas is a kiosk that measures five feet by five feet. On May 11, 2009, a shelf was installed in the middle of the kiosk. The claimant was off work when the shelf was installed. He came in on Monday, May 18, 2009, and discovered the shelf. He felt claustrophobic inside the kiosk, which is where he spent approximately 45 minutes doing his paperwork. He had to leave several times because he was having what he called panic attacks. He told his manager, Robin Byrd, that the shelf was making him claustrophobic. He did finish his shift that day. Later that evening, at approximately 7:30 p.m., the claimant called Ms. Byrd and told her that he did not know if "he could do it." She suggested trying it for a few days to see what happened.

The next day, May 19, 2009, the claimant started his shift between 4:30-5:00 a.m. Ms. Byrd came to work at approximately 10:00 a.m. The claimant said that he could not do "it" and asked if the shelf could be taken out. Ms. Byrd said that it had been put in by the company and she did not think it could be taken out. The claimant then immediately quit his job. He did not even finish his shift that day.

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(6)b 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:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The evidence established that the claimant intended to sever the employment relationship and did so by quitting his job when he found out that a shelf had been installed inside the kiosk where he did his paperwork. The shelf had been installed while he was off work, and when he came back he felt claustrophobic when he did his paperwork inside the kiosk. The paperwork comprised about 45 minutes of his total work day. For approximately 70 to 80 percent of his work day, he was outside washing pumps and sweeping. The claimant worked only a day and half before quitting. The evidence established that he no longer wished to work for the employer.

Iowa law does provide that if there is an employment-related separation because of illness, injury, or pregnancy, good cause is attributable to the employer under certain circumstances. If

an individual is compelled to leave employment because of an injury suffered on the job, an individual may be eligible for benefits. In order to be eligible, the claimant must present competent evidence showing adequate health reasons to justify termination. That competent evidence is missing in this case. The claimant had never been treated for panic attacks prior to his employment with Murphy Oil and had no evidence from any health practitioner that his health was in jeopardy if he continued to work. Although he testified that he had to quit for health reasons, which he specified as an inability to sleep, this testimony is not credible. The claimant would have had only one night in which he was unable to sleep. No one advised him to quit his job. He did tell his employer that he might not be able to do the job, but gave the employer little opportunity to accommodate his difficulties. The claimant has not produced sufficient competent evidence that his voluntary quit was for good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's decision dated June 18, 2009, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw