

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JASON G SELVOG
829 ORLEANS AVE
KEOKUK IA 52632**

**MATRIX METALS LLC
MATRIX METALS
PO BOX 6005
KEOKUK IA 52632**

**Appeal Number: 04A-UI-03951-B4T
OC: 03-07-04 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1-d – Whether the Claimant Left Because of Illness or Injury Upon the Advice of a Licensed and Practicing Physician
Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Whether Claimant is Able and Available for Work

STATEMENT OF THE CASE:

Jason G. Selvog appealed from an unemployment insurance decision dated March 31, 2004, reference 01, that held, in part, the claimant was not eligible to receive unemployment insurance benefits and the employer's account would not be charged. The records indicated the claimant voluntarily left his employment on March 5, 2004 because of a nonwork-related illness or injury which was not caused by the employer.

A telephone conference hearing was scheduled and held on April 20, 2004, pursuant to due notice. Jason G. Selvog participated. Linda Luffler, Human Resources Assistant, participated on behalf of Matrix Metals LLC.

Official notice was taken of the unemployment insurance decision, bearing reference 01, together with the pages attached thereto (5 pages in all). Employer's Exhibit 1, consisting of two pages, was admitted into evidence as a late exhibit when received.

FINDINGS OF FACT:

The administrative law judge, having examined the entire record in this matter, finds that: Jason G. Selvog was employed on October 18, 1993 with Matrix Metals LLC in Keokuk, Iowa. The claimant performed the job duties of a sample processor at or about the time of his last day of work on the job. The claimant's last day of work on the job was on or about March 2, 2003 and he applied for Family Medical Leave which was allowed by the employer under a contractual arrangement with the union representing all employees.

The claimant drew medical benefits for a period of one year.

On March 1, 2004, the claimant held a conversation with Linda Luffler, Human Resources Assistant. The claimant was informed that his disability benefits were being exhausted and that in order to remain as an employee, he needed to send a certified letter requesting additional leave of absence. While medical benefits would not be paid, the claimant did not send the certified letter to the employer requesting to remain as an employee with Matrix Metals LLC as required by the union agreement. Under section 13 of the union agreement, an employee shall lose seniority if he shall quit or be discharged for good cause. In addition, a portion of the union contract reads as follows: "If he is off sick or injured for twelve (12) consecutive months unless he has notified the company in writing by certified mail during the twelfth month of his absence he desires to retain his recall rights. If such notification is received he shall retain his recall rights for another twelve month period provided he notifies the company in writing by certified mail during the twelfth month of his second twelfth month period." The claimant failed to provide the certified statement to the employer as requested on March 1, 2004. On March 8, 2004, the claimant came in for his last disability check and was informed that the employer did not receive the certified letter. On March 17, 2004, the certified letter had not been mailed to or received by the employer and the claimant was terminated from his employment as a voluntary quit under the union rules.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.5-1-d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified

by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

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.

The evidence in the record clearly establishes that the employer complied with the union contract in providing the claimant with twelve months of Family Medical Leave during his absence and that the employer had been provided with medical statements from licensed and practicing physicians throughout the period of time. The claimant had exhausted his medical leave of absence and did not see fit to provide the employer with a certified letter as required by the union contract which would enable the company to keep him as an employee.

The administrative law judge concludes that Jason G. Selvog voluntarily left his employment with Matrix Metals LLC on or about March 17, 2003 within the intent and meaning of the foregoing sections of the Iowa Code.

DECISION:

The unemployment insurance decision dated March 31, 2004, reference 01, is affirmed. Jason G. Selvog voluntarily left his employment with Matrix Metals LLC on or about March 5, 2004 without good cause attributable to the employer because of a nonwork-related illness or injury and benefits are denied until such time as he has requalified under the provisions of the Iowa Employment Security Law.

tjc/b