

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BRANDON HANSEN
Claimant

APPEAL NO. 14A-UI-03130-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAREWAY STORES INC
Employer

**OC: 02/23/14
Claimant: Appellant (2)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Brandon Hansen (claimant) appealed an unemployment insurance decision dated March 12, 2014, (reference 01), which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Fareway Stores, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 15, 2014. The claimant participated in the hearing with Attorney Stuart Cochrane. The employer participated through Theresa McLaughlin, Human Resources Manager; Wes Bass, Warehouse Manager; Tony Johnson, Foreman; and Rick Neely, Night Warehouse Manager. Employer's Exhibits One and Two and Claimant's Exhibits A through M were admitted into evidence.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired as a part-time order picker in the Fareway Warehouse on July 30, 2012, and became full-time in February 2013. He voluntarily quit on January 31, 2014, due to health problems aggravated by his employment. The claimant's pre-employment physical dated July 23, 2012, noted he had a history of mild intermittent asthma. The employer has a dry goods warehouse, a refrigerated warehouse and a freezer warehouse. The claimant mistakenly believed that he was hired to work solely in the dry goods warehouse.

Cold air induces the claimant's asthma and he provided numerous medical notes confirming he should avoid temperatures below zero degrees due to severe asthma allergies. He testified he first experienced problems in January 2013 when he worked in the freezer and his oxidation levels dropped. The claimant said he obtained a medical note from his asthma doctor which prohibited him from working below zero degrees Fahrenheit. There is no medical documentation from January 2013 but there is documentation from December 2013 providing

the same information. The claimant testified he gave the medical note to Manager Rick Neely who said they would try to replace him in that position, but they never did and the claimant had to work in the freezer at least two to three days a week. The employer denies receiving any medical documentation restricting him from working in the freezer.

On January 9, 2014, Foreman Tony Johnson signed three documents the claimant provided, which confirm the employer received the claimant's medical notes which restrict him from working in subzero departments and that the employer is not "abiding by" the physician's notes. Mr. Johnson denied admitted signing the notes but testified that he did not read the notes before signing them.

The claimant had no significant medical problems until January 17, 2014, when he collapsed after working in the freezer two hours. He asked Mr. Johnson to take him to the emergency room and Mr. Johnson dropped him off. The claimant was admitted overnight in the hospital due to his low oxidation levels. He was released on January 18, 2014, and cleared to return to work on January 19, 2014, with the restriction of no freezer work. The claimant returned to work on January 23, 2014, and was scheduled to work in the freezer. He told the employer he had just been hospitalized and could not work in the freezer but was told they would find a replacement. The claimant went into the freezer and had to call an ambulance around midnight because he had trouble breathing. The claimant quit his employment after that but the employer did not receive his resignation letter and considered him a no-call/no-show for eight days.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant voluntarily quit his employment effective January 31, 2014, due to health reasons. Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. For the unemployment to be attributable to the employer, the following conditions must be met: 1) factors or circumstances directly connected with the employment must either cause or aggravate the claimant's condition so as to make it impossible for the employee to continue in employment; 2) the claimant must present competent evidence showing adequate health reasons to justify termination; and 3) before quitting, the claimant must inform the employer of the work-related health problem and that he intends to quit unless the problem is corrected or reasonable accommodations are made. See Iowa Code § 96.5-1-d; 871 IAC 24.26(6)b.

The medical records confirm the claimant's employment detrimentally impacted his health. Although the employer denies knowledge of his work-related medical condition, the preponderance of the evidence establishes the employer knew or should have known the claimant's work in the freezer was putting his health in serious jeopardy and that he would not be able to continue employment under the current conditions. He worked two hours in the freezer on January 17, 2014, before he was admitted to the hospital for breathing difficulties. Less than one week later, he was expected to return to work in the freezer which resulted in the need to call an ambulance. The claimant met his burden. Benefits are allowed.

DECISION:

The unemployment insurance decision dated March 12, 2014, (reference 01), is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css