

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GERALD L WINGER
Claimant

APPEAL NO. 09A-UI-06846-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MADDEN LTD
Employer

**Original Claim: 04/12/09
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 1, 2009, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 29, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Stephanie Platter participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for employer unloading trailers of products for Fairway Foods from October 9, 2006, to September 29, 2008.

The claimant has a heart condition that required coronary bypass surgery on September 24, 2007. He also has high blood pressure and respiratory problems. After he recovered from the heart surgery, he returned to work with a release from his doctor.

In September 2008, the claimant decided that he could not handle the stress and hard labor required by his job. He was concerned that if he continued to work unloading trucks, he could have a heart attack or similar health problem.

He approached his supervisor and told him about his concerns about his health. He asked the supervisor if he could work in the trailer shop, where the work was less strenuous. His supervisor told him he was not needed in the trailer shop. The claimant then quit due to his concerns about his health.

The claimant was not advised by a doctor that his employment was a health hazard. He made the decision on his own. He did not advise his employer of any work-related health conditions that were caused or aggravated by his job.

In a statement dated April 4, 2009, the claimant's doctor said he had not told the claimant to quit his job, but the doctor agreed that the work the claimant was doing was too strenuous, considering his health condition, and would most likely told him that the work was too physical for him if he had asked.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant had not consulted with his doctor before quitting his employment and had not obtained any medical advice to quit. While he asked the employer for a different job, he could not inform the employer about a work-related medical condition that made it impossible for the claimant to continue in employment because he did not see a doctor to have the doctor make that assessment.

Since the claimant has not shown he is eligible under rule 871 IAC 24.26(6)b, he would only be qualified if he: (1) left employment because of illness or injury with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician but his regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d. The facts do not show the claimant has met any of these conditions for receiving benefits.

DECISION:

The unemployment insurance decision dated May 1, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw