

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN T RANDOLPH**  
Claimant

**APPEAL NO. 14A-UI-00681-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN SPIRIT CORPORATION**  
Employer

**OC: 12/15/13**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1)d – Voluntary Leaving (Illness/Injury)

**STATEMENT OF THE CASE:**

John Randolph (claimant) appealed a representative's January 8, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with American Spirit Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 11, 2014. The claimant participated personally. The employer participated by Dane Weeks, Human Resource Manager. The employer offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 on February 18, 2013, as a full-time mail inserter. The claimant signed for receipt of the employer's handbook. On July 1, 2013, the claimant reported to the plant manager and his supervisor he had broken out in a rash on his legs and it was work related. The employer did not have the claimant complete a report of injury or send the claimant for medical treatment. The claimant reported the rash and pain again two days later. The employer did not send the claimant for treatment or complete paperwork. The claimant continued to report the problem every day or every other day. On July 22, 2013, the employer sent the claimant to Occupational Medicine. On the patient status report the health care provider did not check whether the condition was work related, non-work related or undetermined. The provider said that there was a "clear association not readily apparent." The provider suggested either seeing a personal physician or workers' compensation dermatologist. From this report the employer determined that the condition was not work related.

The claimant went to a personal physician. He was excused from work on July 30 and August 2, 2013. When he did not work, the rash abated. When he returned to work the rash returned. The supervisor gave the claimant a fan. The claimant continued to complain daily to his supervisor. The claimant applied for Family Medical Leave because of the rash but the

leave was denied. Each day the claimant complained to the employer about the medical condition but the employer did not complete any paperwork, send the claimant to a physician, or provide an accommodation.

On August 27, 2013, the employer gave the claimant a letter wanting access to the claimant's personal medical records. The claimant told the employer he was quitting work because he could not keep working in the conditions with his medical condition.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 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 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.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991). The claimant

complained daily about his work and medical conditions. The employer gave him a fan. The employer did not send the claimant back for re-evaluation when the rash continued or try to accommodate the claimant's work area when the fan did not help.

The claimant did give the employer an opportunity to resolve his complaints prior to leaving employment. The separation was with good cause attributable to the employer. Benefits are allowed.

**DECISION:**

The representative's January 8, 2014, decision (reference 01) is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css