

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LEE HANSEN
Claimant

APPEAL NO: 16A-UI-09689-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 04/17/16
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 31, 2016, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 22, 2016. The claimant participated in the hearing. Jeremy Mead, General Manager and Mary Nell Fullerton, Human Resources Coordinator, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time plumbing salesperson for Menard Inc. from August 1, 2016 to August 2, 2016. After his first eight-hour shift August 1, 2016, the claimant's arthritis flared up severely. His lower leg swelled significantly and he could not remove his socks without assistance and pain. He had to lie down and prop his leg up until the swelling went down. The claimant had not experienced an attack like this one for approximately the last three years. Consequently, he believed he would be able to perform the essential functions of the position. After working one shift on that type of flooring, however, and experiencing that degree of swelling and pain, the claimant determined he could no longer perform that job. He called Human Resources Coordinator Mary Nell Fullerton and informed her that due to his arthritis he was unable to continue his employment with Menard.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with 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.

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 from whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of serious danger to health, termination of employment by the claimant for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. *Raffety v. IESC*, 76 N.W.2d 787 (Iowa 1956). Where disability is caused or aggravated by the employment, a resulting separation is with good cause attributable to the employer. *Shontz v. IESC*, 248 N.W.2d 88 (Iowa 1976). (Emphasis added).

The claimant's arthritis was severely aggravated by standing on the employer's hard floor for an eight hour shift. That activity caused the claimant's arthritis to flare up and also caused him a great deal of pain. The claimant attempted to perform the job but learned he was unable to do so. His arthritis prevented him from working as a full-time plumbing salesperson and aggravated his condition. Even though the claimant's condition was not caused by the employer, because the claimant could not continue in the job without further aggravating his condition and endangering his health, his leaving is considered to be for good cause attributable to the employer. Therefore, benefits are allowed.

The administrative law judge would also note the employer is not a base-period employer and its account will not be charged for the claimant's benefits.

DECISION:

The August 31, 2016, reference 04, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs