

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WAYNE A BURNS
Claimant

RANDSTAD US LLC
Employer

APPEAL 20A-UI-07053-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/27/19
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

On June 25, 2020, the claimant filed an appeal from the June 23, 2020, (reference 03) unemployment insurance decision that denied benefits based on a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on August 3, 2020. Claimant participated personally and through Deja Burns. Employer participated through staffing manager Keena Haynes.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Employer is a temporary staffing firm. Claimant began working for employer in July 2018. Claimant was last assigned to work as a full-time packager. The assignment ended on April 8, 2020, when claimant resigned.

Claimant has been diagnosed with heart failure and Chronic Obstructive Pulmonary Disorder (COPD).

On April 6, 2020, claimant started an assignment as a packager. The assignment required heavy lifting. Claimant became out of breath and had difficulty doing the work.

On April 7, 2020, claimant saw his medical provider. The medical provider recommended that claimant try a less physical position.

On April 7, 2020, claimant talked to Keena Haynes about the issue. Claimant told Haynes that he had been diagnosed with COPD and could not physically perform the packaging position. Claimant asked for a less physical position. Haynes said she did not have a less physical

position available and asked claimant to try to work through the end of the week. Haynes asked claimant's supervisor to take it easy on him.

On April 8, 2020, claimant tried to perform the work again. He could not. Claimant let his supervisor know before leaving the workplace.

Claimant called employer on April 8, 9, and 10, 2020, and asked for a lighter duty position. None were available.

Claimant was able to perform other positions for employer in the past that included lighter duty work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(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 the 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.

In this case, the duties of the last packaging assignment aggravated claimant's COPD. Claimant informed employer of the problem and said he could not do the work, in line with his

doctor's orders. Claimant asked for an accommodation and informed employer he could not work without one. Employer was unable to provide the accommodation. Therefore, claimant resigned. Claimant established he resigned for a good cause reason attributable to employer.

Claimant also established he is able to and available for work.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 38, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Claimant is able to and available to perform less strenuous work that does not involve heavy lifting, as demonstrated by his work history. Therefore, he is considered able to and available for work, even though he could not physically perform the most recent packaging job for employer.

DECISION:

The June 23, 2020, (reference 03) unemployment insurance decision is reversed. Claimant resigned for a good cause reason attributable to employer. Claimant is able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.



Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

August 10, 2020
Decision Dated and Mailed

cal/scn