

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ALAN J KASIK  
10212 HALL RD NE  
CEDAR RAPIDS IA 52411

MASTER TOOL & MANUFACTURING INC  
1450 PROGRESS DR  
HIAWATHA IA 52233

Appeal Number: 04A-UI-00077-S2T  
OC: 08/17/03 R: 03  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Alan Kasik (claimant) appealed a representative's December 22, 2003 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Master Tool & Manufacturing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 27, 2004. The claimant participated personally. The employer participated by Bob Bitterman, Co-Owner; Mike Johnson, Co-Owner; and Garry Erger, Shop Foreman and Quality Assurance Supervisor.

## 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 October 8, 2003, as a part-time worker. The claimant stopped appearing for work after November 13, 2003, without notice to the employer. On November 17, 2003, the claimant contacted the employer and said the job was not working out. The claimant arranged to collect his belongings. At the hearing the claimant testified that he quit work because his shoulder hurt. The employer was unaware of the claimant's medical condition prior to the claimant's unemployment insurance claim.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes he did.

Iowa Code Section 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

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 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.

The claimant resigned, alleging a medical condition caused by working conditions. The Supreme Court held that in medical resignations, the claimant must first give the employer notice of the problem and an opportunity to remedy it. Suluki v. Employment Appeal Board, 503 N.W.2d (Iowa 1993). In the present case the claimant did not notify the employer of his medical condition prior to his resignation. The claimant is not eligible to receive unemployment insurance benefits because of his failure to meet the notice requirement. In addition, the claimant was not restricted from working by a physician. Benefits are denied.

DECISION:

The representative's December 22, 2003 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are denied.

bas/b