

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FABIAN C AMEZCUA
Claimant

APPEAL NO: 11A-UI-14127-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY
Employer

OC: 10/17/10

Claimant: Appellant (1)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

Fabian C. Amezcua (claimant) appealed a representative's October 24, 2011 decision (reference 02) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Jacobson Staffing Company, L.C. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 22, 2011. The claimant participated in the hearing. Elizabeth Jerome appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a temporary employment firm. After a period of employment through the employer in 2008 and 2010, the claimant resumed taking assignments with the employer on October 24, 2010. Starting on that date, he worked full-time as a third shift fork lift driver for the employer's Des Moines, Iowa, warehouse business client on a long-term assignment. His last day on the assignment was the shift from the evening of June 23 into the morning of June 24, 2011. The assignment ended because the claimant quit the assignment.

The claimant has some issue with a lung that has not been diagnosed by a doctor. In June 2011 he was finding the warehouse to be too stuffy and dusty, and that he was having trouble breathing. He asked the employer if he could go to part-time status or be placed on another assignment, but these were not available options. He did not seek medical attention and was not advised by a doctor that the work conditions were causing or aggravating a medical conditions; he was not advised that he should quit the employment. Because of his personal conclusion that he could not continue in the employment, he informed the business client that he was quitting, and so he did not return to work after June 24.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, he would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee's illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b

The claimant has not presented competent evidence showing adequate health reasons to justify his quitting. He also did not inform the employer of the work-related health problem and inform the employer that he intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied until he has requalified by earning ten times his weekly benefit amount in other employment.

DECISION:

The representative's October 24, 2011 decision (reference 02) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of June 24, 2011, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw