

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA S BLY
Claimant

Z LINE LTD
Employer

APPEAL NO. 12A-UI-06173-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/29/12
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(35) – Non-Work Related Illness or Injury

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated May 18, 2012, reference 01, that held he voluntarily quit with good cause on February 24, 2012, and benefits are denied. A hearing was held on June 20, 2012. The claimant participated. The employer did not participate.

ISSUE:

The issue is whether the claimant voluntary quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant started work as a full-time tow truck driver and making tire service calls for the employer beginning January 9, 2012. He suffered a non-work-related back injury that involved some ruptured discs. He informed the employer about the injury and a doctor imposed a 50-lb. weight lifting restriction. He advised the employer on Friday, February 24 he was quitting in order that he avoid further injury and would not return to work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 24.25(35) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit without good cause attributable to his employer when he left his job on February 24, 2012 due to a non-job-related injury.

The claimant knew he could not continue to perform work for the employer due to the lifting restriction and he did not want to risk further injury. His decision to quit and not return to work is for good cause but not attributable to the employer.

DECISION:

The decision of the department representative dated May 18, 2012, reference 01, is affirmed. The claimant's separation from employment effective February 24, 2012, is considered a voluntary quit without good cause attributable to the employer. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs