

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOBBY L MOODY
Claimant

APPEAL NO. 06A-UI-11635-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FORT DODGE LABORATORIES INC
Employer

**OC: 10/29/06 R: 12
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Bobby Moody filed a timely appeal from the November 28, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 19, 2006. Mr. Moody participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Claimant's Exhibit A, an October 5, 2006 letter from the employer to the claimant, was received into evidence.

ISSUES:

Whether the claimant voluntarily quit the employment for good cause attributable to the employer.

Whether the claimant was discharged for misconduct in connection with the employment that disqualifies him for unemployment insurance benefits.

Whether the claimant's separation from the employment falls under the category of "other separations."

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Bobby Moody was employed by Fort Dodge Laboratories, also known as Fort Dodge Animal Health, as a full-time second-shift production supervisor from February 20, 2005 until August 14, 2006. On August 14, Mr. Moody left work early due to two separate health conditions. Mr. Moody believes he had an enlarged prostate. The condition made it difficult for Mr. Moody to walk or to walk at a normal pace. Shortly after 11:00 p.m. on August 14, Mr. Moody had a bladder accident that necessitated his early departure from the workplace. Mr. Moody has never seen a doctor for the condition he suspects to be an enlarged prostate. Mr. Moody also believes he was suffering from arthritis that caused his joints to "freeze." Mr. Moody was last evaluated for this condition in 2001 and has received no further evaluation or treatment for this condition since 2001. After his early departure on August 14, Mr. Moody contacted the employer's human resources director to indicate that he needed to be off work due to a medical condition. The human resources director instructed Mr. Moody to contact the employer's short-term disability

insurance provider to apply for short-term disability leave and benefits. Mr. Moody contacted the insurance provider. The provider requested that Mr. Moody provide medical documentation of his condition. Mr. Moody did not see a medical professional or provide the requested documentation to the insurance provider. During the first week of September, Mr. Moody contacted the employer to request to return to work. Given Mr. Moody's alleged medical basis for being off work, the employer requested a medical release prior to allowing Mr. Moody to return to work. Mr. Moody never sought medical evaluation and never provided a medical release. Mr. Moody continued to experience health issues that called into question whether he was able to return to his prior work duties.

On October 5, 2006, Human Resources Manager John Lewis sent a message to Mr. Moody, who had relocated to Florida. The letter indicated the employer had learned on September 29 that the request for short-term disability benefits had been denied because of Mr. Moody's failure to provide medical documentation within 30 days of his request. The letter further indicates that the employer had been unable to reach Mr. Moody either by letter or telephone. The letter indicated that Mr. Lewis had left several messages on Mr. Moody's cell phone, but had received no response. The letter indicated that Mr. Moody had not notified the employer of his ability to return to work. The letter indicated that the employer deemed the employment relationship terminated, but invited Mr. Moody to provide medical documentation for the employer's further consideration. Mr. Moody still has not sought medical evaluation for his alleged medical condition.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether Mr. Moody quit, was discharged from the employment, or experienced some other form of separation from the employment. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, or failure to pass a probationary period. 871 IAC 24.1(113)(c). A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The greater weight of the evidence indicates that Mr. Moody initiated the separation from the employment in mid-August, when he notified the employer that he needed to be away from the employment due to medical issues. Mr. Moody had not been advised by a licensed and practicing physician to separate from the employment or to commence a leave of absence. The greater weight of the evidence indicates that Mr. Moody then failed to take reasonable and appropriate steps to justify his absence from the employment and failed to take reasonable steps to maintain contact with the employer regarding his ability to return to work. The greater weight of the evidence indicates that Mr. Moody abandoned the employment, moved to Florida, and disregarded the employer's attempts to further discuss his return to the employment. The employer's letter of October 5 merely memorialized the separation that had already occurred.

Based on the evidence in the record, the administrative law judge concludes that Mr. Moody voluntarily quit the employment.

The remaining question is whether the evidence in the record establishes that Mr. Moody's voluntary quit was for good cause attributable to the employer. It does not.

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.

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.

The evidence in the record indicates that Mr. Moody voluntarily quit the employment for personal reasons. Mr. Moody's failure to seek any medical evaluation whatsoever, even from a state-subsidized and/or free medical clinic, prompts suspicion of an alleged medical condition. The alleged condition was not caused or aggravated by the employment. The separation was not based on medical advice. There is no indication of recovery or medical release to return to work. There is no indication that Mr. Moody has in fact returned to the employer subsequent to full recovery to offer his services. See 871 IAC 24.25(35).

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Mr. Moody voluntarily quit the employment without good cause attributable to the employer. Accordingly, Mr. Moody is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged for benefits paid to Mr. Moody.

In the event that Mr. Moody is subsequently deemed eligible for benefits, his ability to work and availability for work should be evaluated.

DECISION:

The Agency representative's November 28, 2006, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in a been paid wages for insured work

equal to ten times his weekly benefit amount, provided he is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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