

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY D GOEDKEN
Claimant

APPEAL NO. 07A-UI-03625-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SALEM MANAGEMENT INC
Employer

OC: 02/18/07 R: 01
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Salem Management, Inc. filed an appeal from a representative's decision dated March 30, 2007, reference 02, which held that no disqualification would be imposed regarding Randy Goedken's separation from employment. After due notice was issued, a hearing was held by telephone on April 24, 2007. The employer participated by Cyd Hall, Office Manager. Mr. Goedken did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Goedken was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Goedken began working through Salem Management, Inc. on March 6, 2006. On March 22, he sustained a work-related injury that resulted in surgery on July 12 to repair a torn rotator cuff. He was released to light-duty work on September 13. The employer provided Mr. Goedken with light-duty work at various locations.

Mr. Goedken was released to return to work without restrictions effective December 11. He accepted a full-time assignment with Den Hartog Industries, where he started on December 12. He was assigned work shearing metal. His job involved pulling bar stock horizontally to the shear machine. The metal he lifted did not weigh in excess of 30 pounds. He worked seven hours on December 12 and then notified Salem Management, Inc. that he would not be returning to the assignment because the work caused pain in the arm on which he had surgery. He was not offered any other work on December 12.

Mr. Goedken was examined by Dr. Thomas Chopp on December 11, 2006. Dr. Chopp noted that he continued to have "some mild discomfort in the anterior aspect of the shoulder." Dr. Chopp further noted that he "has some mild pain behaviors" and that he "retracts from light touch to the shoulder." Mr. Goedken was placed on medications for pain.

REASONING AND CONCLUSIONS OF LAW:

Mr. Goedken was hired for placement in temporary work assignments. An individual so employed must complete the last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19). Mr. Goedken did not complete the assignment with Den Hartog Industries that he accepted on December 12, 2006. He left the assignment voluntarily before its completion. For the above reasons, his separation is considered a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1).

Mr. Goedken left the assignment with Den Hartog Industries because the work caused pain in the arm on which he underwent surgery in July of 2006. The fact that he had been released to work without restrictions does not mean that he did not experience pain. He was experiencing pain when examined by Dr. Chopp on December 11. This finding by the doctor lends credence to Mr. Goedken's complaints of pain on December 12. The pain he experienced during the examination by Dr. Chopp was presumably without any exertion on Mr. Goedken's part. It is reasonable, therefore, to assume that he would experience pain when exerting himself in performing his job shearing metal.

Mr. Goedken made Salem Management, Inc. aware of his pain on December 12. He was not offered alternative work that might have presented less of a problem for his arm. For the reasons stated herein, the administrative law judge concludes that Mr. Goedken left his employment for good cause attributable to the employment as provided by 871 IAC 24.26(6)b. He had a work-related injury that was caused and aggravated by the employment. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated March 30, 2007, reference 02, is hereby affirmed. Mr. Goedken was separated from Salem Management, Inc. on December 12, 2006 for good cause attributable to the employer. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs