

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY SAVAGE
Claimant

APPEAL NO: 06A-UI-10249-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEAMES WELDING & REPAIR INC
Employer

OC: 09/10/06 R: 04
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Timothy Savage (claimant) appealed a representative's October 12, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Beames Welding & Repair, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2006. The claimant participated in the hearing. Timothy Beames, the vice president, 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 voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on March 27, 2006. The claimant worked as a full time welder. Prior to working for the employer, the claimant started experiencing medical issues in October 2005. The claimant's doctor was unable to diagnose the cause of the claimant's health problems in October.

After the claimant started working for the employer, he continued to have health-related problems. The claimant's health started to deteriorate. During the claimant's employment, he was in and out of the hospital. The employer learned the claimant had breathing problems.

The last day the claimant performed any work for the employer was June 23, 2006. When the claimant did not report to work after June 23, the employer assumed the claimant was again in the hospital. The claimant's physician referred the claimant to a specialist.

In early July, the claimant saw a specialist who told the claimant he could no longer work as a welder because the job aggravated his breathing problems. The employer did not have any

other work for the claimant to do. When the claimant talked to the employer in July or early August, he informed the employer he could no longer work for the employer because welding aggravated his breathing problems. Although the claimant indicated he would work another 30 days for the employer, the employer declined this offer.

The claimant is currently working as a truck driver.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. The claimant voluntarily quit his employment. When a claimant quits, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code section 96.6-2.

The law presumes a claimant voluntarily quits employment for reasons that qualify him when he is compelled to leave because the employment aggravates an illness or disease that makes it impossible for a claimant to continue working without seriously putting the claimant's health at risk. To be eligible under this provision, the claimant must show adequate health reasons to justify ending the employment relationship. The claimant must also inform the employer about health-related problems connected with the employment before he quits to give the employer an opportunity to make accommodations for the claimant.. 871 IAC 24.26(6)(b).

The facts of this case establish the claimant was compelled to quit because the welding environment aggravated his breathing problems. Additionally, a specialist advised the claimant that he had to quit working as a welder. After the claimant quit, he pursued a job as a truck driving that he is capable of working.

DECISION:

The representative's October 12, 2006 decision (reference 01) is reversed. The claimant was compelled to quit his employment because working as a welder aggravated his health problems. The claimant established he quit for reasons that qualify him to receive unemployment insurance benefits. As of September 10, 2006, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs