

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERMAN Y SWANK
Claimant

APPEAL NO. 09A-UI-04782-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RUAN TRANSPORT CORP
Employer

OC: 01/25/09
Claimant: Appellant (5)

Iowa Code Section 96.5(1)(d) – Voluntary Quit

STATEMENT OF THE CASE:

Sherman Swank appealed from an unemployment insurance decision dated February 26, 2009, reference 02, that denied benefits. A telephone hearing was scheduled for April 22, 2009. Mr. Swank provided a telephone number for hearing and was available for a hearing. The employer did not provide a telephone number for the hearing. Based on a review of the Agency's administrative file, the administrative law judge concludes that a hearing is not necessary. The administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision based on the contents of the administrative file.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for unemployment insurance benefits.

FINDINGS OF FACT:

Sherman Swank filed a timely appeal from the February 26, 2009, reference 01 decision that denied benefits in connection with separation from the employment that was based on a non-work-related medical condition. Before the matter could proceed to an appeal hearing, the Claims Division at Workforce Development entered an April 15, 2009, reference 03 decision that amended and reversed the reference 01 decision and allowed benefits.

REASONING AND CONCLUSIONS OF LAW:

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 decision that denied benefits has already been amended and reversed by the Workforce Development Claims Division. Accordingly, Mr. Swank has already received the fullest remedy the law allows. There is no need for further action on this matter. The parties have appeal rights in connection with the April 15, 2009, reference 03 decision allowing benefits.

DECISION:

The Agency representative's February 26, 2009, reference 02, decision is modified as set forth in the April 15, 2009, reference 03 decision. The decision disqualifying the claimant from receiving benefits has been amended and reversed by the April 15, 2009, reference 03 Claims Division decision that allows benefits. There is no need for further action on this matter. The parties have appeal rights in connection with the April 15, 2009, reference 03 decision allowing benefits.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs