

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT K OLIVER**  
Claimant

**APPEAL NO. 09A-UI-03388-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOSS FARMS TRUCKING INC**  
Employer

**Original Claim: 01/04/09  
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated February 25, 2009, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 30, 2009. Claimant participated. Employer participated by Jason Moss, Owner, and Karen Moss, Office Manager.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on December 23, 2008. Claimant went off work due to illness that prevented him from driving trucks. Claimant was capable of truck driving work in middle January 2009. Claimant called employer to ask for work but no work was available, as all the trucks were occupied.

Claimant was offered his job back at the time of hearing at the same hours and wages. Claimant accepted the offer.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of illness. Since claimant recovered to the point that he could perform full-time work, unrestricted, and asked for work, he has qualified for benefits. Claimant need only ask the employer for further work after recovery to make this a quit for cause attributable to employer.

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.

**DECISION:**

The decision of the representative dated February 25, 2009, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw