

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROD C ROHRBAUGH
Claimant

APPEAL NO. 07A-UI-08830-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LINK SNACKS INC
JACK LINKS BEEF JERKY
Employer

OC: 07/29/07 R: 01
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 11, 2007, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 2, 2007. Claimant participated. Employer responded to the hearing notice but did not participate, as the representative was not available. Exhibits A, B, C, and One were admitted into evidence.

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 July 10, 2007. Claimant had foot pain related to work on a forklift. Claimant sought medical treatment for the work-related injury. Claimant was advised to change jobs or deal with the pain. Claimant could not find any other jobs posted at the company. Claimant needed to bid for a posted job. Claimant asked for a medical leave of absence. The company denied the request for a medical leave of absence. Claimant could not get a report from the treating doctor to authorize time off. The treating doctor did indicate that claimant would need to deal with the pain or change jobs. Claimant risked suffering the consequence of permanent injury if he continued to work with the foot pain. Employer did not attempt to accommodate claimant's work related foot pain.

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 chronic foot pain caused by a work-related injury. Claimant had no choice but to quit or suffer the risk of permanent injury. Claimant was advised by his doctor to find new work or deal with the pain. Employer did not have any accommodation available. This is a quit for detrimental working conditions. Claimant had no choice but to quit or suffer the risk of permanent injury. Since this is a work injury, good cause attributable to employee has been established. Benefits allowed.

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.

871 IAC 24.26(4), (6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

DECISION:

The decision of the representative dated September 11, 2007, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw