

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA D MADDIX**  
Claimant

**APPEAL NO. 14A-UI-04627-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 04/06/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1)d – Voluntary Leaving (Illness/Injury)

**STATEMENT OF THE CASE:**

Joshua Maddix (claimant) appealed a representative's April 28, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 27, 2014. The claimant participated personally. The employer was represented by Bruce Burgess, Hearing Representative, and participated by David Perkins, Director, and Michelle Millang, Office Manager. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on January 26, 2013, and at the end of his employment he was working as a full-time service worker and wrapper. The claimant's job required repetitive movement. The claimant worked through January 14, 2014, and then took Family Medical Leave (FMLA).

The claimant's physician issued a note on January 21, 2014, stating the claimant could return to work but he should "limit frequency of repetitive motion". A physician's note issued on January 23, 2014, said the claimant was released with no restrictions but said, "Please be aware that carpal tunnel syndrome is worsened by repetitive hand/motion." On February 5, 2014, the physician stated the claimant had limited use of both his hands. The claimant had a five-pound lifting restriction and he was to "avoid repetitive vigorous grasping, pinching, pushing pulling & twisting." The March 5, 2014, physician's note had the same restrictions as February 5, 2014, note but a comment was added. "Condition is aggravated by patients work." The employer did not consider returning the claimant to work because the physician's notes indicate the claimant could injury himself if he were returned to work.

On March 11, 2014, the employer notified the claimant he was supposed to furnish his supervisor with a periodic report of his situation. He provided notes to the benefits coordinator from his physician indicating he could not return to work without causing further injury. The claimant's FMLA expired on April 9, 2014. He did not contact his supervisor about his condition or return to work. On April 16, 2014, his physician's note stated, "patient's condition is aggravated by his work." The claimant contacted the benefits coordinator about the physician's note but there was no change in the claimant's condition. The claimant has carpal surgery planned for June 17 and July 1, 2014.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(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:

(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 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant did not return to work or call his supervisor after his FMLA expired.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

The claimant did not return to work or contact his supervisor when his FMLA expired. Inasmuch as the claimant did not voice or give the employer an opportunity to resolve his complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The representative's April 28, 2014, decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css