

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DANIEL R WEBER**  
Claimant

**MENARD INC**  
Employer

**APPEAL NO. 15A-UI-11832-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/27/15**  
**Claimant: Appellant (1)**

Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated October 16, 2015, reference 01, which held which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 5, 2015. Claimant participated personally. Employer participated by attorney Gary Roehm, with witness Brent Henriksen.

**ISSUES:**

Whether claimant is able and available for work?

Whether claimant quit for good cause attributable to employer?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 23, 2015; when he quit Claimant has severe obsessive compulsive disorder. The disorder has caused claimant great anxiety on a daily basis. Claimant would wake up hours before work every day and have dry heaves for over an hour prior to his going into work.

Sixteen years earlier, when claimant was working for employer, a store floor collapsed after claimant who was told to put a large amount of flooring tiles on the store floor. No one was injured in this collapse, and claimant was not warned or asked to pay for the damage. Claimant had great anxiety after the collapse and started seeing a psychiatrist.

Claimant continued seeing a number of psychiatrists over the next 16 years. Recently his psychiatrist recommended that claimant quit his job as his OCD and anxiety had gotten to be too great for claimant to manage.

Claimant stated that the business liked his work and wanted him to continue. He stated that he got along well with the managers. Claimant did state that no matter what he did, that employer would push him to do more.

Employer had offered working in a different department to claimant, but claimant did not wish to work less convenient hours.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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.

Claimant voluntarily quit his employment without good cause attributable to employer. As much as the administrative law judge feels for the anxiety claimant suffers from, such anxiety is not the result of employer's actions. Employer had offered working in a different department to claimant, but claimant did not wish to work less convenient hours.

Inasmuch as the illness is not work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work.

**DECISION:**

The decision of the representative dated October 16, 2015, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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