

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SHANNON L COWGER**  
Claimant

**APPEAL NO. 18R-UI-10389-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DARLING INTERNATIONAL INC**  
Employer

**OC: 08/12/18  
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit  
Section 96.5-1-d - Voluntary Quit for Medical Reasons

**STATEMENT OF THE CASE:**

Shannon Cowger (claimant) appealed a representative's August 30, 2018, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Darling International (employer). This administrative law judge issued a decision on September 25, 2018, affirming the representative's decision. A decision of remand was issued by the Employment Appeal Board on October 16, 2018. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 1, 2018. The claimant participated personally. The employer participated by Lezah Geerts-Creed, Environmental Health Safety Coordinator.

**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 November 7, 2017, as a full-time maintenance person. He worked for the employer previously. The employer, a rendering plant, posts signs prohibiting cellphones and the taking of photographs. The claimant was ill and used all of his vacation and sick leave. He thought he would quit work to "save face and have a better record". The claimant's doctor did not restrict him from working.

On unknown days he talked to the night supervisor and the plant supervisor about things that needed to be fixed and replaced. The claimant did not complete work orders for those items or speak with the Environmental Health Safety Coordinator. He did not call the corporate safety hotline. Before he quit, the claimant used his cellphone to take a video of a tank of hot grease that was leaking, some raw material on the floor, and other things. On August 14, 2018, at 2:18 a.m. the claimant said before he walked out, "I resign. I can't take this". Continued work was available had the claimant not resigned.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

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 his words and actions. He told the employer he was leaving and quit work. When an employee quits work because he is dissatisfied with the work environment, his leaving is without good cause attributable to the employer. The claimant left work because he did not like his work environment. His leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer.

Iowa Code section 96.5(1)d provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

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). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. *Area Residential Care, Inc. v. Iowa Department of Job Service*, 323 N.W.2d 257 (Iowa 1982). A “recovery” under Iowa Code Section 96.5-1-d means a complete recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

The claimant left work due to a medical condition but not under the advice of his physician. The employer did not consent to his leaving. The claimant has failed to provide the employer with certification that he has recovered. In addition the claimant has failed to offer his services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative’s August 30, 2018 decision (reference 01) is affirmed. 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/rvs