

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY M FREISINGER
Claimant

APPEAL NO. 10A-UI-07673-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GEORGIA – PACIFIC CONSUMER
PRODUCTS LP**
Employer

OC: 02/07/10
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 18, 2010, reference 04, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 8, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Mary Jo Kenneally participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time as an assistant to the press operator from April 5 to April 19, 2010. On April 20, 2010, the claimant suffered a hernia while he was off work. He went to the doctor, who imposed a 15-pound weight restriction on the claimant.

The claimant called the employer and informed the human resources manager, Mary Jo Kenneally, that he had suffered a hernia and would be off work until he had surgery. He said he would be off work for several weeks after the surgery. He said he had a 15-pound weight restriction and knew the employer did not have work meeting that restriction. Kenneally told the claimant that she would have to check with the plant manager to see what the next step would be. The plant manager agreed to hold the claimant's job open for him until he was released to return to work. When Kenneally shared this information with the claimant on April 21, 2010, he responded that he thought he would just quit. He then filed a written resignation.

The claimant quit because he thought he could get back on unemployment benefits as he had no income available and because he did not feel competent in his job that ultimately would have required him to operate the press when needed. The claimant, however, was still in training and would not have been allowed to operate the press by himself if he wasn't competent to do so.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I believe the employer's testimony that the claimant called in stating that he was going to have to be off work until his surgery and then quit at the point that the employer informed him that it would leave the job open for him. No good cause for quitting attributable to the employer has been shown. The claimant's belief that he was not competent for his job would not be grounds for granting benefits.

In the future, the claimant may be able to meet the standard of Iowa Code § 96.5-1-d to qualify for benefits.

The unemployment insurance law provides that individual is qualified to receive benefits if he: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but his regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d.

At this point, however, the claimant has not established his recovery has been certified and has not offered to return to work.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base-period employer in a future benefit year, its account will not chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated May 18, 2010, reference 04, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css