

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

<b>JAMES L NORRIS</b> Claimant  <b>L A LEASING INC</b> Employer	68-0157 (9-06) - 3091078 - EI  <b>APPEAL NO. 18A-UI-07283-S1-T</b>  <b>ADMINISTRATIVE LAW JUDGE DECISION</b>  <b>OC: 08/27/17</b> <b>Claimant: Appellant (1)</b>
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Section 96.5-1-j – Separation from Temporary Employer

**STATEMENT OF THE CASE:**

James Norris (claimant) appealed a representative's July 5, 2018, decision (reference 09) that concluded he was not eligible to receive unemployment insurance benefits due to his separation from work with L. A. Leasing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 25, 2018. The claimant participated personally. The employer participated by Colleen McGuinty, Unemployment Insurance Administrator, and Michelle Goedken, Account 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 employer is a temporary employment service. The claimant performed services from May 29, 2018, through June 5 2018. On June 5, 2018, the claimant's wife called the employer and said the claimant was resigning until further notice. She said the claimant passed out at his doctor's appointment on June 5, 2018, and was admitted to the hospital overnight for observation. The claimant would contact the employer when he was able to return to work.

On June 6, 2018, the claimant was released from the hospital, went to the employer, and requested light duty work. He wanted small or odd jobs. Ideally, he wanted to work at the Delaware County Fair but he did not know the dates of the fair. The employer did not have the specific type of work available that the claimant was requesting. The claimant did not provide the employer with a doctor's note allowing him to return to work.

On June 7, 2018, the claimant's physician provided him with a note. It stated the claimant could not work as of June 6, 2018. In addition, the claimant was not allowed to drive, operate machinery or be exposed to heights. The claimant's restrictions have not been lifted.

**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)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 issue under the advice of his physician. The employer consented to his leaving. The claimant has failed to provide the employer with certification that he has recovered. 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 July 5, 2018, decision (reference 09) 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

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