

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
DENNIS L MILLER Claimant	APPEAL NO. 11A-UI-03102-S2T
TEAM STAFFING SOLUTIONS INC Employer	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 02/06/11 Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Dennis Miller (claimant) appealed a representative's March 10, 2011 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Team Staffing Solutions (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 5, 2011. The claimant participated personally. The employer participated by Sarah Fiedler, Claims Administrator.

ISSUE:

The issue is whether the claimant is denied unemployment insurance benefits because he voluntarily quit work without good cause attributable to the employer.

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 February 17, 2007, as a temporary full-time dryer assigned to work at Grain Processing Corporation. The claimant stopped working on January 29, 2010, after suffering a heart attack. The employer was informed and consented to the claimant's absence. He was released to return to work without restrictions by his doctor on January 12, 2011. The employer has not received a copy of the release.

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:

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).

The claimant left work due to an injury 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 March 10, 2011 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.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css