

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN LONG
Claimant

APPEAL NO. 09A-UI-05872-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CARGILL MEAT SOLUTIONS
CORPORATION**
Employer

OC: 03/01/09
Claimant: Respondent (1)

Iowa Code Section 96.5(1)d – Voluntary Leaving (Illness/Injury)

STATEMENT OF THE CASE:

Cargill Meat Solutions Corporation (employer) appealed a representative's April 6, 2009 decision (reference 03) that concluded Brian Long (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 30, 2009. The claimant participated personally. The employer participated by Alicia Alonzo, Human Resources Generalist.

ISSUE:

The issue is whether the claimant 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 September 17, 2008, as a full-time laborer. The claimant notified his supervisor of the injury and the supervisor sent the claimant to the nurse. The nurse and claimant completed some forms. The nurse called the claimant's supervisor and trainer into her office. She told them to start the claimant's job over or move him. The supervisor stormed out of the office and the trainer left, too. The nurse gave the claimant a note. The claimant took the note to a second supervisor. The second supervisor found the first supervisor. The employer refused to accommodate the nurse's directions and assign the claimant to a different position or send him to a physician. The claimant completed an exit interview in which he mentioned his work injury as a reason for leaving.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 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.

871 IAC 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

When an employee quits work because of a work-related injury of which he has provided the employer with notice, his leaving is with good cause attributable to the employer. The claimant left work after suffering a work-related injury. He notified the employer of the injury. He notified the employer's nurse of the injury. The employer's nurse notified the supervisor and the trainer of the injury. The claimant notified another supervisor of the injury. The claimant notified the employer in an exit interview of the injury. The employer did nothing but try to put the claimant back to his regular work. The claimant's leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's April 6, 2009 decision (reference 03) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css