

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BARRY D JONES

Claimant

APPEAL NO. 09A-UI-08666-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA

Employer

Original Claim: 04/26/09

Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Barry Jones filed an appeal from a representative's decision dated June 8, 2009, reference 01, which denied benefits based on his separation from Heartland Express, Inc. of Iowa (Heartland). After due notice was issued, a hearing was held by telephone on July 2, 2009. Mr. Jones participated personally and offered additional testimony from June Tew. The employer participated by Dave Dalmasso, Human Resources Representative.

ISSUE:

At issue in this matter is whether Mr. Jones was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Jones began working for Heartland on June 27, 2008 as an over-the-road driver. He left the employment on December 25 in order to undergo open-heart surgery. He was not eligible to take time off under the Family and Medical Leave Act but was allowed 15 days of personal leave time.

Mr. Jones had surgery on January 8 and was released from the hospital on January 13. His doctor released him to return to work on May 23, 2009, with the recommendation that he not lift more than 50 pounds. He has not reoffered his services to Heartland since his release. Mr. Jones was not advised that his medical condition was caused or aggravated by his employment with Heartland.

REASONING AND CONCLUSIONS OF LAW:

Mr. Jones left his employment with Heartland for medical reasons. The employer was given immediate notice of his need to be absent to have surgery. Mr. Jones has not reoffered his services to the employer since being released by his doctor. Since he has a 50-pound lifting restriction, it must be concluded that he has not fully recovered from his surgery as the term

“recovery” is used in Iowa Code section 96.5(1)d. See Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

Mr. Jones is not eligible to receive benefits, because he has not fully recovered from his heart surgery and/or because he has not reoffered his services to the employer after being released by his doctor.

DECISION:

The representative's decision dated June 8, 2009, reference 01, is hereby affirmed. Mr. Jones is not eligible for job insurance benefits, because he has failed to satisfy the requirements of section 96.5(1)d. Benefits are denied until such time as he meets all requirements or until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw