

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL J BEEKMAN
Claimant

APPEAL NO. 09A-UI-07639-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A P AIR INC
Employer

OC: 04/19/09
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Michael Beekman filed an appeal from a representative's decision dated May 13, 2009, reference 01, which denied benefits based on his separation from A P Air, Inc. (APA) After due notice was issued, a hearing was held by telephone on June 11, 2009. Mr. Beekman participated personally. The employer participated by Lori Kollmorgen, Office Manager. Exhibits One and Two were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Beekman 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. Beekman began working for APA on January 21, 2008. He worked full time in the warehouse and shipping department. His last day at work was April 2, 2009. During the early morning hours of April 3, he voluntarily checked himself into a treatment facility. He was not able to use a telephone for the first 72 hours of his confinement and, therefore, his wife was in communication with the employer.

On the morning of April 3, Ms. Beekman notified the employer that her husband was in detox and indicated she believed it would be for 24 to 48 hours. On April 6, she notified the employer that he would be in treatment for 14 to 28 days. The employer indicated she would need to call her back. When the employer re-contacted Ms. Beekman on April 6, she was told her husband's job could not be held that long and that his request for a leave of absence was denied. This information was relayed to Mr. Beekman on April 6 or 7, but he did not personally contact the employer regarding his status. He could have changed his treatment from in-patient to out-patient status but opted not to do so.

The employer sent Mr. Beekman a letter dated April 6 confirming that his leave request was denied and that his employment was terminated due to the anticipated length of time he would

be gone. Continued work would have been available if he had continued to present himself for work.

REASONING AND CONCLUSIONS OF LAW:

Although APA sent Mr. Beekman a letter of termination, the administrative law judge concludes that he was the one who initiated the separation from employment. He voluntarily checked himself in for treatment without first securing a leave of absence. The employer never told Ms. Beekman that the leave request was or was going to be approved. Mr. Beekman indicated in his appeal that he would have opted for out-patient treatment had he known his leave request would be denied. Therefore, it must be concluded that out-patient treatment was a viable alternative for him.

Mr. Beekman knew by April 7 that his leave request was denied. However, he took no steps to change his status to out-patient so that he could maintain his job and also have treatment. Although he had access to a telephone by April 6, he made no effort to communicate with the employer to see if the job would still be available if he changed his patient status. His actions were not those of one who desires to retain his working relationship. For the above reasons, the administrative law judge concludes that Mr. Beekman was voluntarily separated from employment.

The administrative law judge does not dispute that drug and/or alcohol treatment is a compelling personal reason for leaving work within the context of Iowa Code section 96.5(1)f. However, Mr. Beekman was gone longer than ten days and additional time was not allowed by the employer. Therefore, he is not entitled to benefits pursuant to section 96.5(1)f. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The evidence of record does not establish any good cause attributable to APA for Mr. Beekman's quit. For the reasons stated herein, benefits are denied.

DECISION:

The representative's decision dated May 13, 2009, reference 01, is hereby affirmed. Mr. Beekman quit his employment for no good cause attributable to the employer and does not qualify for benefits under any exception created by law. Benefits are withheld 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

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