

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICKEY S PALMER**  
Claimant

**APPEAL NO: 14A-UI-12599-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TRIPLE D CONTRACTING INC**  
Employer

**OC: 11/16/14  
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Involuntary Quit  
Iowa Code § 96.4(3) – Availability for Work

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's December 3, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit for reasons that do not qualify him to receive benefits. The claimant participated at the January 6 hearing. Joe Garthright, the president, and Dave Mathis appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified and eligible to receive benefits as of November 16, 2014.

**ISSUES:**

Did the claimant voluntarily quit this employment for reasons that qualify him to receive benefits, or did the employer discharge him for disqualifying reasons?

Is the claimant available for work?

**FINDINGS OF FACT:**

The claimant started working for the employer in March 2013 as a full-time short haul truck driver. After the claimant started experiencing side effects from his prescription medication, he went to his doctor. The claimant took several prescription medications and his doctor did not know right away which medication caused the adverse reactions. In an attempt to narrow down the problem medication, the claimant's doctor faxed the employer a November 14, 2014 statement indicating the claimant should be on light-duty work and should not operate any heavy machinery on the road for three months.

The employer received the claimant's work restriction, but did not have any light-duty work for him to do. The employer told the claimant that when he was able to drive a truck again, he needed to contact the employer. The employer did not tell the claimant he was terminated.

The claimant established a claim for benefits during the week of November 16, 2014. He has been making a minimum of two job contacts each week he files a claim for benefits. The

claimant is looking for mechanic work, general labor work and sales work or work that meets his current work restrictions. The claimant has also applied for future truck driving jobs because he anticipates his doctor will remove the light-duty work restriction in the near future.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. Voluntary Quit means a claimant exercises a voluntary choice between remaining employed or discontinues the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate the employment. *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Employment Appeal Board*, 492 N.W.2d 438,440 (Iowa App. 1992).

In *Wills*, the Iowa Supreme Court considered the case of a pregnant certified nursing assistant who went to her employer with a physician's release that limited her to lifting no more than 25 pounds. *Wills* filed a claim for benefits because the employer would not let her return to work. This employer had a policy of never providing an employee with light-duty work. The court ruled that *Wills* became unemployed involuntarily and was able to work because her weight restrictions did not preclude her from performing other job available in the labor market.

This case is analogous to *Wills* in that the claimant became unemployed because he was restricted to light-duty work for about three months. The facts do not establish that the claimant committed work-connected misconduct or that he voluntarily terminated his employment.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The unemployment insurance rules provide that a person must be physically able to work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b. The evidence establishes that the claimant is able to perform gainful work, just not work that requires him to drive or operate heavy equipment until the medication that caused side effects is identified. Even though the claimant was unable to work as a truck driver as of November 14, he is available for other work in which he has experience. The claimant established that he is available for work. As of November 14, the claimant is eligible to receive benefits even though he has some work restrictions.

Since the claimant did not voluntarily quit his employment, was not discharged for work-connected misconduct and did not request a leave of absence, the reasons the claimant became unemployed do not disqualify him from receiving benefits.

**DECISION:**

The representative's December 3, 2014 determination (reference 01) is reversed. The claimant did not voluntarily quit and the employer did not discharge him for work-connected misconduct. Therefore, the reason the claimant became unemployed as of November 14, does not disqualify him from receiving benefits.

The claimant did not request a leave of absence and established that he is available for work in the labor market even though he has some work restrictions. As of November 14, 2014, the claimant is qualified and eligible to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css