

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY A RUDE
Claimant

APPEAL NO. 14A-UI-01665-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CITY CONSTRUCTION GROUP LC
Employer

OC: 12/22/13
Claimant: Appellant (4)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated February 3, 2014, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on March 6, 2014, by telephone conference call. The claimant participated personally. The employer failed to respond to the hearing notice and did not participate. The record consists of the testimony of Jeffrey Rude.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant began working for the employer as a full-time concrete laborer on June 11, 2013. The claimant's last day of work was December 23, 2013. The claimant sustained a non-work-related injury on December 23, 2013. He was told to take a week off and was placed on "extreme" light duty on December 27, 2013. The employer told the claimant that there was no light duty available. The claimant was returned to full duty on January 21, 2014, and offered his services to the employer. The employer did not allow the claimant to return to work.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence

that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The claimant is eligible for unemployment insurance benefits as of January 21, 2014. The evidence established that the claimant was off work due to a non-work-related injury. His physician released him to return to work without restrictions as of January 21, 2014. The claimant returned to the employer to offer his services and the employer did not provide work for the claimant. The claimant, therefore, did not quit his job. Benefits are allowed as of January 21, 2014.

DECISION:

The decision of the representative dated February 3, 2014, reference 01, is modified in favor of the appellant. Unemployment insurance benefits are allowed, as of January 21, 2014.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs