

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATT D REYNOLDS**  
Claimant

**APPEAL NO: 12A-UI-01540-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CROSS-DILLON TIRE INC**  
Employer

**OC: 01/01/12**  
**Claimant: Appellant (2-R)**

Section 96.5-2-a –Discharge  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 9, 2012, reference 01, that held he voluntarily quit employment without good cause on December 28, 2011, and benefits are denied. A telephone hearing was held on March 6, 2012. The claimant, and his mother, Antonia Hicks, participated. Bill Fischer, Store Manager, participated for the employer. Claimant Exhibit A was received as evidence.

**ISSUE:**

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds: The claimant worked for the employer as a full-time shop person and service driver from June 26, 2010 to December 28, 2011. Claimant suffered a back injury at work on December 23 that he reported to a supervisor. His mother made a doctor appointment for December 27. Dr. Schissel issued claimant that he was released to return to work light duty for four weeks on December 28. Claimant was prescribed medication for pain and muscle relaxation.

Claimant went to work on December 28 and provided the doctor light duty work statement. He was given some light duty work for about 6 hours. When he asked about taking a lunch break, he was told there was no further light duty work, he should go home and not come back for four weeks. Claimant filed an unemployment claim, and the employer assumed he quit his job.

The claimant continues to take medication for his back injury and he has not been released for full duty by his doctor as of the date of this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The administrative law judge concludes that the claimant was discharged for no act of misconduct on December 28, 2011.

The employer statement to claimant to go home and not return for four weeks due to a light duty job related injury constitutes a discharge from employment. The claimant showed a willingness to do light duty work that he performed on December 28. If the employer had an issue whether claimant injured his back on the job and/or what was meant by light duty, it could have sent him to their workers' compensation doctor when he came to work.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes the issue whether claimant is able to perform work due to injury is remanded to claims for a department fact-finding. The doctor statement restricts claimant to light duty that means he is not able to do his regular job, and he has not been seen by the same doctor as of the date of this hearing. He is still taking medication for his back injury. He has not received a release to return to work without restriction.

**DECISION:**

The department decision dated February 9, 2012, reference 01, is reversed. The claimant was not discharged for misconduct on December 28, 2011. The issue whether claimant is able and available for work is remanded to claims. Benefits are allowed, provided claimant is otherwise eligible.

---

Randy L. Stephenson  
Administrative Law Judge

---

Decision Dated and Mailed

rls/pjs