

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHAEL A KOCH**  
Claimant

**APPEAL NO. 11A-UI-04501-M2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERICAN CUSTOMER CARE INC**  
Employer

**OC: 5/23/10**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated March 30, 2011, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on May 2, 2011. Claimant participated. Employer participated by Ely Merrell. Exhibits 1 and 2 were admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant quit his employment on March 3, 2011 because his long standing anxiety problems and migraine headaches had advanced to the point where he was unable to continue working. The health issues predate the employment. Claimant agrees that it will be difficult to find a position that will not trigger his health conditions, and he has applied for disability.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

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 record does not establish that the claimant quit with good cause attributable to the employer when he quit due to long standing health issues which predate the employment herein. Nor is the claimant able and available for employment at this time due to those same health issues.

**DECISION:**

The decision of the representative dated March 30, 2011, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible (including able and available).

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Stan McElderry  
Administrative Law Judge

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Decision Dated and Mailed

srm/pjs