

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BYRON W WHEELS

Claimant

APPEAL NO. 06A-UI-11779-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANDERSON SERVICES LLC

Employer

**OC: 10/22/06 R: 02
Claimant: Appellant (3)**

Section 96.5-1 - Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Byron W. Wheels filed a timely appeal from an unemployment insurance decision dated November 14, 2006, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held December 20, 2006 with Mr. Wheels participating. Human Resources Manager Debbie Bunting participated for the employer, Anderson Services, LLC.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Byron W. Wheels was hired as an order picker by Anderson Services, LLC on June 1, 2006. He last worked for the company on June 16, 2006. He called in sick on June 19 and has not contacted the employer since.

Mr. Wheels plays semi-professional football for the Iowa Thrashers. He did not return to his employer because he suffered a serious knee injury at football practice. He has not provided the employer an unrestricted medical release.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer.

Iowa Code section 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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. The evidence establishes that Mr. Wheels abandoned his job by not reporting to work after calling in sick on June 19, 2006. This constitutes job abandonment. Benefits must be withheld.

The administrative law judge concludes that this is not a situation covered by Iowa Code section 96.5-1-d. It provides as follows:

Iowa Code section 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Mr. Wheels did not follow the procedures set forth in the Code in that he did not notify the employer of the reason for leaving employment. Had he done so, he could potentially have requalified for benefits by returning to the employer with an unconditional release to return to work. As it is, he may requalify for benefits only by earning ten times his weekly benefit amount in wages for insured work with other employers.

DECISION:

The unemployment insurance decision dated November 14, 2006, reference 01, is modified adversely to the claimant. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

css/pjs