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

WALTER RILEY
Claimant

APPEAL NO: 13A-UI-03672-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASSILL MOTORS INC
Employer

OC: 03/-03/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 21, 2013, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on April 30, 2013. The claimant participated in the hearing. Jay Cassill, Vice-President, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time auto detailer for Cassill Motors from May 17, 2012 to March 4, 2013. On Sunday, March 3, 2013, the claimant thought his back went out. He was not at work at the time. He went to his doctor and X-rays were taken which indicated the claimant needed a hip replacement and he could only walk with the assistance of a walker. He called the employer March 4, 2013, and resigned his position because he could no longer perform his job as a detailer.

On March 12, 2013, the claimant saw a surgeon and received injections into his hip. After he received the shots he was able to walk and was mobile again. He called the employer and asked if he could have his job back but the employer had decided to eliminate the detailer position and assigned that work outside the dealership.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without 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.

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.   871 IAC 24.25.   Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer.   Iowa Code section 96.6-2.   The claimant chose to leave his position with the employer after sustaining a non-work-related back injury.   He was unable to perform the essential functions of his job as he could barely walk on March 3, 2013, and consequently submitted his resignation immediately and the employer accepted it.   While the claimant later asked to return to his job after receiving medical treatment that made it possible for him to work again, he had already submitted his resignation, and that resignation was accepted, prior to his offer to return to work. Because the claimant chose to submit his resignation rather than wait and see if his condition improved, his resignation stands. Additionally, because the claimant voluntarily left his employment without good cause <u>attributable to the employer</u> as that term is defined by Iowa law, benefits must be denied. (Emphasis Added). The claimant was not able and available for work until receiving injection March 12, 2013, at which time he became mobile.

DECISION:

The March 21, 2013, reference 01, decision is affirmed.   The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

_____
Julie Elder
Administrative Law Judge

_____
Decision Dated and Mailed

je/css