

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES A WILLIAMS
Claimant

APPEAL NO. 12A-UI-11338-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLIEDBARTON SECURITY SERVICES LLC
Employer

OC: 08/19/12
Claimant: Respondent (2R)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed a timely appeal from a representative's decision dated September 11, 2012, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice was provided, a telephone hearing was held on October 16, 2012. The claimant participated. The employer participated by Mr. Shawn Farmer, Account Manager.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds: James Williams was employed by Alliedbarton Security Services from October 1, 2011 until July 9, 2012 when he voluntarily quit his job. Mr. Williams left his employment due to a non-work-related illness (COPD). Mr. Williams was employed as a part-time security officer and was paid by the hour.

In late June 2012 Mr. Williams made a claim for disability. The claimant left his employment based upon the belief that benefits would be available to him on his disability claim that would pay for his breathing medications. Due to a change that had taken place some seven months before, the Alliedbarton Security Services insurance carrier would no longer pay for the medications under the insurance provided to Mr. Williams by the company. Work continued to be available to the claimant at the time of his leaving.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does not.

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 this matter Mr. Williams suffered from COPD, a breathing disorder. The claimant made a decision in June of 2012 to seek disability payments through the federal government's programs and was approved for a disability. It was the claimant's belief that he would receive adequate funding through his disability claim to pay for needed medications that were no longer available through Alliedbarton's insurance coverage. Mr. Williams was aware of the change in insurance coverage which became effective in January 2012. The claimant accepted the change for approximately seven months before leaving his employment on July 9, 2012.

While Mr. Williams' reasons for leaving his employment may have been good-cause reasons from his personal viewpoint, they were not good-cause reasons attributable to the employer. The claimant had accepted a change in the insurance coverage for a substantial period of time before leaving. The claimant left his employment after his claim for disability had been approved and he believed that he would receive remuneration in the future based upon his disability. Good cause for leaving attributable to the employer has not been shown. Benefits are denied.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

- b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

- (2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This

subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

DECISION:

The representative's decision dated September 11, 2012 reference 01, is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, and is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to the UIS Division for determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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