

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF C HANSON

Claimant

APPEAL NO. 14A-UI-06969-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CUNNINGHAM PARTS INC

Employer

OC: 06/01/14

Claimant: Appellant (2)

Section 96.5-1-d - Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Jeff Hanson (claimant) appealed a representative's June 26, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Cunningham Parts (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 29, 2014. The claimant participated personally. The employer participated by Donald Cunningham, Manager/President/Owner, and Le Anne Jones, Human Resources Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 10, 1991, as a full-time shop foreman. The claimant was diagnosed with photosensitive epilepsy on December 14, 2013. He stopped work on that day. He provided a doctor's note to his employer indicating he could not work and his employer allowed him to be away from work. During his absence the claimant tried different medications. He was supposed to stay at home and needed to be seizure free for six months before he could return to work. The claimant visited the work place for short periods because he enjoyed his coworkers. The employer asked the claimant to teach a coworker some skills. In April 2014, the employer told the claimant to go on welfare and take disability. This upset the claimant. He felt he should remove his tools and give the employer the key to building to protect himself from liability. This caused hard feelings between the employer and claimant. On June 5, 2014, the claimant provided the employer with a release to return to work without restrictions. The employer did not want the claimant to return to work and had no work for the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. Area Residential Care, Inc. v. Iowa Department of Job Service, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code section 96.5-1-d means a complete recovery without restriction. Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

The claimant left work due to a medical condition under the advice of his physician. The employer consented to his leaving. The claimant has provided the employer with certification that he has recovered and offered his services to the employer. The claimant has met the requirements of the statute and, therefore, is eligible to receive unemployment insurance benefits.

DECISION:

The representative's June 26, 2014, decision (reference 01) is reversed. The claimant voluntarily left work with good cause attributable to the employer. Benefits are allowed.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css