

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENJAMIN F DOYLE
Claimant

APPEAL NO. 10A-UI-04767-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**SECURITAS SECURITY SERVICES USA
INC**
Employer

**OC: 02/21/10
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated March 18, 2010, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 13, 2010. Claimant participated with witness Fred Doyle. Employer participated by Tom Kuiper, TALX Hearing Representative with witness Chyna Sheppard, Human Resource Specialist. Exhibit One was 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 last worked for employer on May 17, 2009. Claimant went off work due to a serious heart illness. Claimant had surgery and an extended recuperation period. Claimant informed employer of the illness. Claimant was not eligible for FMLA. Employer let claimant go on July 7, 2009 for having no work for 30 days which is by action of policy. Claimant was discharged as an active employee. Claimant returned July 23, 2009 and dropped off his employer-owned equipment. Claimant returned February 22, 2010 after a full release to return to work to ask for his job back. Claimant applied online but no work was available.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of illness. Since claimant promptly informed employer that he was out due to illness and returned to ask for employment after a full release, this is a quit for cause attributable to employer. Benefits allowed.

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.

DECISION:

The decision of the representative dated March 18, 2010, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css