

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG A HALL
Claimant

APPEAL NO. 09A-UI-15935-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IA DEPT OF HUMAN SVCS/GLENWOOD
Employer

OC: 09-20-09
Claimant: Appellant (1)

Iowa Code § 96.5(1)d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the October 9, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on November 30, 2009. The claimant did participate. The employer did participate through Kathy King, Treatment Program Administrator and Pam Stiepe, Public Service Executive III.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a resident treatment worker full time beginning July 22, 2003 through July 8, 2009 when he voluntarily quit.

The claimant had a non-work-related back injury that deteriorated to the point where he was not able to stand or get out of bed. He never asked the employer to accommodate any work restrictions he may have been given, nor did he ask for light duty work. The claimant chose to voluntarily quit due to his non-work-related back condition so that he could undergo treatment in an attempt to recover.

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 § 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.

871 IAC 24.25(35) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The claimant has not established that the injury was work related, as is his burden. Thus, he must meet the requirements of the administrative regulation cited above. He did not present evidence in writing to the employer that the physician suggested leaving the employment. No work restrictions were in force. The claimant never asked his employer for accommodation for his inability to lift or perform all of the job duties. Thus, the claimant has failed to establish his entitlement to unemployment insurance benefits. Benefits are denied.

DECISION:

The October 9, 2009, 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 the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs