

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL JOYCE
Claimant

MIDWEST CONSTRUCTION SERVICES INC
Employer

**APPEAL 20A-UI-01196-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/24/19
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(35) – VQ – Illness, injury, pregnancy; non-work related

STATEMENT OF THE CASE:

Claimant filed an appeal from the January 31, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 9, 2020, at 3:00 p.m. Claimant participated. Mary Jo Even was a witness for claimant. Employer participated through Monica Mattimore, Human Resources Benefits Assistant. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUE:

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was most recently employed by Midwest Construction Services, Inc., a temporary employment firm, for an assignment as a full-time electrician at IES Commercial in Norwalk, Iowa. Claimant's assignment at IES Commercial began on March 25, 2019. The assignment was expected to be complete in November 2019. On June 29, 2019, claimant sustained a non-work related injury. Claimant sought treatment from a physician. On June 29, 2019, claimant notified employer that he was unable to return to work at that time due to the injury. On January 2, 2020, claimant was released by his physician to return to work. Claimant did not contact employer and offer his services.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit work without good cause attributable to employer. Benefits are denied.

Iowa Code section 96.5(1)d provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.25(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 section 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 section 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.

Claimant's act of notifying employer that he was not returning to work on June 29, 2019 is considered a voluntary quit. Claimant quit due to his non-work related illness. Because claimant did not return to employer and offer his services upon release by his doctor, he has not met the criteria for the exception to disqualification set forth in Iowa Code section 95.5(1)d. Claimant has not met his burden of proving he voluntarily quit his employment for good cause attributable to employer. Benefits are denied.

DECISION:

The January 31, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/scn