

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SHANE E CAMPBELL
Claimant

IA DEPT OF TRANSPORTATION
Employer

APPEAL NO. 15A-UI-11464-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/06/15
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated October 2, 2015, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 29, 2015. Claimant participated, and was represented by attorney Pat Hopkins. Employer participated by hearing representative Pamela Drake, with witnesses Janet Kout-Samson and Todd Netley. Employer's Exhibit 1, and Claimant's Exhibits A and E through G were 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 June 1, 2015. Claimant had been injured on multiple occasions while at work and had a back surgery in 2011. Claimant additionally had an injury at work when a tree fell on his head in early 2014. Claimant was released without restrictions to return to work on August 6, 2014.

Subsequent to his release to return to work, claimant experienced pain while at work. He was uncomfortable when lifting, or uncomfortable when sitting in a vehicle for an extended period of time. As a part of claimant's job duties, he had to drive a snow plow for up to 16 hours in a day.

Claimant did not request that he be granted a transfer to a less physically taxing position. Claimant also did not ask that he not do some duties that were not comfortable. Claimant did not produce any documentation of bringing any further work restrictions to his employer after he returned to work in August of 2014.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of the ongoing pain caused by claimant's previous work injuries.

In order for the claimant to establish that he is qualified for benefits, the voluntary quit must be on the advice of a licensed and practicing physician. Taylor v. IDJS, 362 N.W.2d 534 (Iowa 1985). In this matter, claimant's quit was not on the advice of a qualified physician, but rather based on claimant's own desires. While those desires are certainly respected by the administrative law judge, they do not amount to good cause to quit attributable to employer such that claimant is eligible to receive unemployment benefits. Claimant did not ask for accommodations by employer prior to quitting, or even report his ongoing medical problems after he returned to work in August of 2014. As employer did not have specific knowledge of claimant's ongoing difficulties, it could not be expected to make those changes necessary to make claimant's work experiences more tolerable.

DECISION:

The decision of the representative dated October 2, 2015, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs