

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDY ETTER
Claimant

APPEAL NO. 13A-UI-01703-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAKER ELECTRIC INC
Employer

OC: 01/06/13
Claimant: Appellant (2)

Section 96.5(1)d – Quit/Medical

STATEMENT OF THE CASE:

The claimant, Randy Etter, filed an appeal from a decision dated February 8, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 12, 2013. The claimant participated on his own behalf and was represented by Lori Elrod. The employer, Baker Electric, participated by Shop Superintendent Larry Enga.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Randy Etter was employed by Baker Electric from May 29, 2012 until September 10, 2012 as a full-time electrician. The claimant was involved in a motorcycle accident on September 8, 2012, and suffered a contusion on his foot which required surgery, a broken thumb on his left hand and a broken finger on his right hand. He was not able to perform work at that time.

Shop Superintendent Larry Enga visited Mr. Etter in the hospital and told him there was no work the employer had for him to do and he was considered a voluntary quit. The claimant was not released from the hospital until September 27, 2012, and not fully released to return to work until January 10, 2013.

On the day he was fully released he went to the electrical workers union hall and signed up for work but so far none is available to him. Under the provisions of the collective bargaining agreement he would not have been allowed to approach Baker Electric directly to request to return to work.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant is considered a voluntary quit by operation of law because of a non-work-related injury which prevented him from performing his job duties. This was not caused by his employment.

Mr. Etter did immediately make himself available for employment as soon as he was fully released by his physician. Although he did not go directly to Baker Electric, the administrative law judge considers going to the union hall to sign up for work is substantially the same thing under the collective bargaining agreement. The claimant is qualified for benefits.

DECISION:

The representative's decision of February 8, 2013, reference 01, is reversed. Randy Etter is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/tll