

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**WILLIAM E MCALPINE
63 - 8TH ST
WOODBINE IA 51579**

**EVENTIDE LUTHERAN HOME
FOR THE AGED MISSOURI SYNOD
DENISON IA 51442**

**Appeal Number: 04A-UI-08360-SWT
OC: 10/26/03 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 26, 2004, reference 03, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 24, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Connie Thompson participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a certified nursing assistant (CNA) from March 3 to April 27, 2004. After April 27, 2004, the claimant was off work due to medical problems under a doctor's care. He suffers from fibromyalgia and bradycardia (slow heart beat) and stopped working due to back pain and dizziness. His doctor advised him to leave his job as a CNA because the job involved prolonged standing. On July 7, 2004, the claimant informed

the employer that he was quitting his job because his doctor had told him to find a job that did not involve prolonged standing.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code Section 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.

The unemployment insurance law provides that individual is qualified to receive benefits if he: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but his regular work or comparable suitable work was not available. Iowa Code Section 96.5-1-d.

The unemployment insurance rules also provide that a claimant is qualified to receive benefits if compelled to quit employment due to a health condition attributable to the employment. The rules require a claimant: (1) to establish that conditions at work caused or aggravated an injury, illness, or allergy; (2) to present competent evidence that conditions at work made it impossible to continue in employment due to a serious health danger; and (3) to inform the employer before quitting of the work-related health condition and that he intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not met the conditions for receiving unemployment insurance benefits under Iowa Code Section 96.5-1-d. He has not offered to return to work after recovering from the health problem that caused him to leave work. He has also not met the conditions for receiving benefits under 871 IAC 24.26(6)b. The record does not contain competent medical evidence that work conditions caused or aggravated his health problems. Furthermore, the claimant told the employer that he was quitting to find a job without prolonged standing. This is different from requesting accommodation of a work-related medical condition.

The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount or he offers to return to work after recovering from the health problems that caused him to quit and he is not offered comparable work.

DECISION:

The unemployment insurance decision dated July 26, 2004, reference 03, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount or he offers to return to work after recovering from the health problems that caused him to quit and he is not offered comparable work.

saw/b