

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TUAN NGUYEN
Claimant

APPEAL NO. 07A-UCFE-00030-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

US POST OFFICE
Employer

**OC: 04/08/07 R: 02
Claimant: Appellant (1)**

Section 96.5-1-d – Voluntarily Quit due to Health Condition

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 28, 2007, reference 03, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 23, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Angie Pettinger participated in the hearing on behalf of the employer. Although the issue of whether the claimant was able to and available to work was listed as an issue, the issue has already been determined by the Agency.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked for the employer as a postal worker from December 2003 to April 13, 2007. He began developing problems with pain in his leg in April 2007. He was examined at Broadlawn Medical Center, but they could not find any medical problems to explain his condition. No physician advised the claimant to leave employment.

The claimant decided to return to his home country of Vietnam to seek treatment. He contacted his supervisor and stated that he needed to leave employment to seek medical treatment in Vietnam. He was told that he could reapply for work when he returned, and if there was a position available, he could return to work.

The claimant traveled to Vietnam in April 2007. He was treated there, and doctors diagnosed his condition as a blood clot in his leg. He was told that he needed surgery, but he did not have the money to have the procedure done. He was released to return to work in August 2007.

The claimant traveled back to Iowa. He offered to return to work, but the employer did not have any position available for the claimant. He is on a list and will be called when a position opens for him.

REASONING AND CONCLUSIONS OF LAW:

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 § 96.5-1-d.

The claimant left employment due to illness, but when he left he had not been advised by a licensed physician to leave. The doctors at Broadlawn Medical Center were not able to find anything wrong with him. He therefore has not shown he was qualified under Iowa Code § 96.5-1-d.

The claimant would be qualified under the unemployment insurance rules if he had obtained a leave of absence from the employer but was not reemployed after coming back from the leave of absence. 871 IAC 24.22(2)j(1). The evidence, however, fails to show the claimant obtained a leave of absence from the employer.

DECISION:

The unemployment insurance decision dated September 28, 2007, 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, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw