

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONALD L MAROVETS**  
Claimant

**APPEAL NO. 12A-UI-02541-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE CROWN GROUP INC**  
Employer

**OC: 01/08/12**  
**Claimant: Respondent (1)**

Section 96.5-1-d – Voluntary Quit for Medical Reasons  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Ronald Marovets (claimant) appealed a representative's March 9, 2012 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with The Crown Group (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 29, 2012. The claimant was represented by Erin Lyons, Attorney at Law, and participated personally. The employer participated by Jill Atwater, Human Resources Manager, and Jason Garcia, Operations Manager. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason and whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 7, 2011, and at the end of his employment he was working as a full-time load lead. The claimant suffered a non-work related injury on January 21, 2011. He did not work after July 21, 2011. The claimant's physician restricted him from work from July 22 through 29, 2011. On July 29, 2011, the claimant's physician released the claimant to return to work with restrictions. The claimant kept the employer notified at all times of his condition and the physician's notes. The employer did not have work for the claimant with his non-work-related injury's restrictions. Continued work was available had the claimant not had work restrictions.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code § 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. Area Residential Care, Inc. v. Iowa Department of Job Service, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code § 96.5-1-d means a complete recovery without restriction. Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa App. 1985).

The claimant left work due to an injury under the advice of his physician. The employer consented to his leaving. The claimant has failed to provide the employer with certification that he has fully recovered. In addition the claimant has failed to offer his services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits. The claimant may requalify by returning to the employer with an unconditional release. The claimant could then receive benefits if regular work or comparable suitable work was not available.

The next issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes he is.

871 IAC 24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness he is considered to be unavailable for work. The claimant was released to return to work without restrictions by his physician. He is considered to be available for work because his physician stated he was able and available for work. The claimant is not disqualified from receiving unemployment insurance benefits.

**DECISION:**

The representative's March 9, 2012 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is able and available for work. He is qualified but not eligible to receive unemployment insurance benefits.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs