

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ALPHA A BAH
Claimant

APPEAL NO. 15A-UI-05976-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 06/29/14
Claimant: Respondent (1)

Section 96.5-2 – Quit Attributable to Employer

STATEMENT OF THE CASE:

Team Staffing Solutions Inc. filed a timely appeal from a representative's decision dated May 15, 2015, reference 02, which held claimant eligible to receive unemployment insurance benefits finding that the claimant was laid off due to lack of work. After due notice was provided, a telephone hearing was held on July 2, 2015. Although duly notified, the claimant did not participate. The employer participated by Ms. Sarah Fiedler, Human Resource Generalist. Official notice was taken of the claimant's administrative file.

ISSUE:

The issue in this matter is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered all the evidence in the record and having taken official notice of the claimant's administrative file, the administrative law judge finds: Alpha Bah was employed by Team Staffing Solutions from November 10, 2014 until on or about April 5, 2015 when the claimant was injured in an automobile accident and given a 15-pound lifting restriction by his physician. The claimant presented the doctor's limitation to Team Staffing Solutions and was told that he could not work with a limitation. Mr. Bah was advised to return fully released. The administrative records reflect that the claimant was released to return to work on April 30, 2015 and informed Team Staffing Solutions that he was fully released and ready to resume his assignment. The claimant was told at that time that there was no work available.

Mr. Bah had been assigned to work as a case picker at Schenker Logistics and was being paid by the hour.

It is the employer's position that Mr. Bah quit his employment citing medical reasons as the reason for leaving his work through Team Staffing Solutions Inc. at Schenker Logistics.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left employment with good cause attributable to the employer. It does.

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.

Iowa Admin. Code r. 871-24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

Based upon the evidence in the record and the contents of the claimant's administrative file, the administrative law judge concludes that Mr. Bah did not quit his job on or about April 5, 2015 but instead presented a doctor's limitation that limited the claimant's lifting to 15 pounds for a period of time, until the claimant recovered from an automobile accident injury. When the employer would not allow Mr. Bah to work with a work limitation, he had no alternative but to follow the employer's advice. The claimant was advised to return to Team Staffing Solutions when fully released. The administrative record establishes that the claimant provided a full medical release to the employer and attempted to return to work but was told at that time that there was no work available to him.

Because the evidence in the record does not establish that the injury was work related, the claimant was required to meet the requirements of the administrative regulations cited above. The administrative record reflects that the claimant did present evidence to his employer that he was fully released to return to work by a licensed and practicing physician and that although he

attempted to offer his services upon recovery and after being certified as able to return to work, the employer had no work for Mr. Bah.

After reviewing all the evidence in the record and the claimant's administrative file, the administrative law judge concludes that the claimant was "laid off" by Team Staffing Solutions effective April 30, 2015 and the claimant attempted to return upon recovery after being certified as fully able to return to work by a licensed and practicing physician. The claimant's leaving at that time was due to lack of work and attributable to the employer.

DECISION:

The representative's decision dated May 15, 2015, reference 02, is affirmed. The claimant left work with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css