

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL R LOTT**  
Claimant

**APPEAL NO. 06A-UI-09555-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES – MARSHALLTOWN**  
Employer

**OC: 08/20/06 R: 02**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Daniel R. Lott (claimant) appealed a representative's September 28, 2006 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits after a separation from employment from Temp Associates – Marshalltown (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 17, 2006. The claimant participated in the hearing. Judy Rebig appeared on the employer's behalf and presented testimony from one other witness, Mike Thomas. During the hearing, Claimant's Exhibits A and B were entered into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The employer is a temporary employment firm. The claimant began taking assignments with the employer on July 27, 2005. He began another assignment with another business client on March 6, 2006. He worked full-time as a die cast operator. His last day on the assignment was May 30, 2006. He suffered a work-related injury to his foot on that date and as a result was not able to return to that work.

Prior to August 10 the claimant's doctor released him to return to light-duty work as of that date; the employer provided light-duty work within its own office. He could have worked the light-duty full time, but he did have some doctor's appointments which precluded him from working all available hours. He did not have transportation, so the employer was providing him with transportation to and from work and to and from his doctor's appointments. The claimant worked on this basis from August 10 through August 14.

On August 15 the claimant called off work because he had no babysitter for his children. On August 16 the claimant called and reported he would not be at work due to "other commitments;" he indicated on a message that he was depressed and would not return due to

an incident that had occurred. On August 17 he called and reported that he was going to an emergency room due to back pain; on August 18 he indicated that he could not work, but provided no reason. When Ms. Rebik, the manager of the employer's Marshalltown office, attempted to call the claimant to see if he needed a ride on August 21, August 22 and August 23, she was unable to reach the claimant at home. When there was no further communication from the claimant, the employer deemed the claimant to have quit by job abandonment.

The incident to which the claimant had referred on August 16 had occurred on August 11. On that date he had indicated when Ms. Rebik picked him up at about 8:15 a.m. that his back was hurting. At about 9:15 a.m. the claimant reported that his pain had become severe and that he wanted to go to the emergency room. Ms. Rebik was initially concerned that the claimant was seeking to claim the back pain as something work-related and that he was expecting the employer to cover the costs. The claimant became insistent, and Ms. Rebik became more firm in her insistence that the employer was not responsible for the costs of anything related to the back pain, and suggested that if the claimant did not like the employer's position on the matter, he could leave. When it became clearer that the claimant understood that the employer was not going to be accepting financial responsibility for any issue regarding the back pain, Ms. Rebik did offer to take the claimant to the emergency room, but the claimant decided to get a ride with another acquaintance.

The claimant was not happy with how Ms. Rebik had handled the issue on August 11. While the claimant did not remember, Ms. Rebik did apologize to him on August 12 for her verbal defensiveness in handling the situation the prior day. However, the claimant felt that he was still being "shunned" and treated unfairly when he returned to work on the 12th through the 14th, as he felt he was put in a work area without much potential for interaction with other employees. The employer had placed him in that area only so he could perform his assigned duties without undue interruption; the claimant acknowledged that he was not very comfortable doing essentially the office work or phone survey work the employer had for him to do.

At some point, possibly August 16, he visited a social worker regarding depression; the social worker described the claimant as having "adjustment disorder with mixed anxiety and depressed mood," and indicated he should be off work from August 11 through September 5; however, the claimant did not provide a copy of any medical excuse to the employer or explain he was off work due to medical orders.

#### **REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for 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.

Iowa Code § 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not presented competent evidence showing adequate health reasons to justify his quitting. Before quitting the claimant did not inform the employer of the work-related health problem and inform the employer that he intended to quit unless the problem was corrected or reasonably accommodated. While the claimant was unhappy with Ms. Rebik's handling of the August 11 situation, she had apologized and the claimant did not specify any other specific action he expected the employer to take to correct the problem. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable.

O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). The claimant has not satisfied his burden. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

**DECISION:**

The representative's September 28, 2006 decision (reference 01) is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. As of September 28, 2006, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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