

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMIR A MOHAMED
Claimant

APPEAL NO. 08A-UI-09745-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 08/10/08 R: 01
Claimant: Appellant (4)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Samir A. Mohamed (claimant) appealed a representative's October 13, 2008 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of Kelly Services, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2008. The claimant participated in the hearing. Nancy Voelker, a senior supervisor, appeared on the employer's behalf. 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 his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant registered to work on behalf of the employer's clients on October 8, 2007. The employer is a temporary staffing firm. The employer assigned the claimant to a job at Worley Warehousing. This was a long-term assignment.

The claimant started this assignment on December 31, 2007. The claimant worked with other people building displays.

The claimant experienced problems with his leg(s). The claimant went to a doctor and learned what the problem was with his leg(s). As a result of the medical problem with his leg(s), the claimant could not do work that required him to stand. On February 4, 2008, the claimant informed the employer he could no longer work at the assignment because issues with his leg(s) prevented him from performing work that required him to stand. There was more work for the claimant to do at Worley Warehousing when the claimant stopped working at this assignment.

The claimant is looking for sit-down jobs, but the employer does not have any of these jobs to assign to the claimant.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. When a claimant quits, he has the burden to establish he quits for reasons that qualify him to receive benefits. Iowa Code § 96.6-2.

The claimant quit because he has medical issues with his leg(s). As a result of the claimant's medical condition, he cannot do work that requires him to stand. The law presumes a claimant voluntarily quits employment without good cause when he leaves because of a medical issue that is not caused or aggravated by the employment and the claimant has not offered to return to perform the work he had been doing. 871 IAC 24.25(35).

The claimant established that as a result of a medical condition, he could not continue to work for the employer on jobs that required him to stand. While the claimant was able to perform job that allowed him to sit, the employer does not have this type of work. The claimant established personal reasons for quitting his assignment at Worley Warehousing. Unfortunately, the claimant did not establish that he quit for reasons that qualify him to receive benefits. Therefore, as of February 3, 2008, the claimant is not qualified to receive benefits.

Since the claimant is not eligible to receive benefits as of February 4 based on the reasons for his employment separation, the issue of whether he is able to and available for work as of February 4, 2008, is not relevant.

DECISION:

The representative's October 13, 2008 decision (reference 01) is modified in the claimant's favor. The claimant voluntarily quit his employment without good cause, but the claimant quit on February 4, not January 25, 2008. Therefore, the claimant is disqualified from receiving unemployment insurance benefits as of February 3 instead of January 20, 2008. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw