

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRIAN K HARTMAN**  
Claimant

**CNH AMERICA LLC**  
Employer

**APPEAL 16A-UI-02660-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/14/16**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the February 29, 2016, (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on March 30, 2016. The claimant, Brian K. Hartman, participated personally. The employer, CNH America LLC, participated through Human Resource Manager Laura Hubbard. Witness Mike Edwards testified on behalf of claimant.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant discharged for disqualifying job-related misconduct?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a Welder and Programmable Operator from September 4, 2007, until his employment ended on May 28, 2015. Claimant's job duties included welding and operating a robot. In 2014 and 2015 the claimant had two deaths in his immediate family. He also suffered from a health issue which required him to be away from work for over 30 days. These issues caused the claimant great personal stress.

On or about May 7, 2015 claimant was experiencing a mental illness and he left his shift early. On May 8, 2015 the claimant had a meeting with Jill Dunlop, who was working in Human Resources. Claimant expressed a need for mental health services to Ms. Dunlop. He was confused and agitated during the meeting and Ms. Dunlop called security. Two security guards walked the claimant off of the property. Immediately following this incident the claimant was

confined in the hospital for mental health issues for nine days. These health issues were not work related but were related to his personal stress he had been suffering from. Claimant was released from the hospital with no work restrictions. He did not contact the employer after being released from the hospital.

The employer mailed claimant four letters inquiring with him on the status of his employment and whether or not he would be filing for short term disability or a leave of absence. When the employer received no response from the claimant, he was formally separated from employment for failing to come to work or notify the employer of his current status.

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

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was a voluntary quit without good cause attributable to the employer. Benefits are denied.

Iowa Code § 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.

Claimant was not discharged from employment. Claimant voluntarily quit. 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). Claimant intended to quit when he failed to reply to the letters the employer mailed to him and failed to contact the employer that he was able and willing to return to work.

The next step in the analysis is to determine whether or not the claimant left for good cause attributable to the employer. Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.26(6)a 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.

- a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

Claimant's medical condition was not work-related. Claimant was released from the hospital and did not have any restrictions. Upon his recovery, the claimant did not return to the employer to offer his services. As such, claimant voluntarily quit his employment without good cause attributable to the employer.

The last issue in this appeal relates to the claimant being able to and available for work.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(1)a and (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Claimant was ill due to several non-work related circumstances that occurred in 2014 and 2015. As of February 14, 2016, claimant fully recovered and is able to and available for work.

In summary, while claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Claimant is able to and available for work, however, the separation from employment is disqualifying. Benefits must be denied.

**DECISION:**

The February 29, 2016 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he 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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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/pjs