

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JUSTIN M DAISY
Claimant

US POSTAL SERVICE/EQUIFA
Employer

APPEAL 21A-UCFE-00017-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/14/21
Claimant: Appellant (5R)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the May 25, 2021 (reference 01) unemployment insurance decision that denied benefits to the claimant based upon a voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on July 28, 2021. The claimant participated personally. The employer did not participate. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Was 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 rural carrier. Claimant began working for this employer in 2016 in a part-time capacity and then transferred to a full-time position. Claimant has medical conditions that make him more susceptible to serious complications should he contract COVID-19. In February of 2020, his medical provider advised him that he needed to self-quarantine and not work in public. Claimant's job duties required him to work in the public and no reasonable accommodation was made for his work restrictions.

Claimant tendered his resignation from employment to his supervisor, Erin Cross, on May 20, 2020 after he exhausted his sick leave and paid time off. Claimant's medical provider continued to advise that he not work with the public until he was released without restrictions on May 20, 2021. Claimant began working full-time on May 27, 2021 with American Medical Response. Claimant did not return to this employer to offer his services after his medical provider cleared him to return to work. The claimant had no other employment between benefit years. The issue of whether the claimant worked in and has been paid sufficient wages to be eligible for benefits in a subsequent benefit year will be remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code section 96.5(1)d provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

(emphasis added).

Claimant had an intention to quit and carried out that intention by tendering his written resignation to his supervisor on May 20, 2020. As such, 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).

In this case, the claimant voluntarily quit his position due to his medical conditions. Claimant recovered from the medical conditions to the point where he could work in this position pursuant to Iowa Code § 96.5(1)d; however, he failed to return to the employer to offer his services. As such, the separation from employment is disqualifying and regular unemployment insurance benefits are denied on that basis.

The next issue is whether the claimant has been able to and available for work. The administrative law judge finds that the claimant was not able to and available for work effective his original claim date of March 14, 2021 through May 20, 2021 when his medical provider released him from his work restrictions.

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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

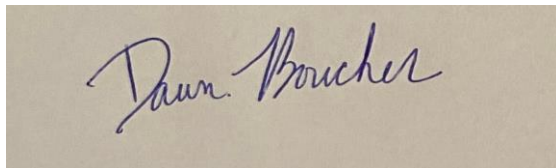
Claimant's medical provider restricted him from working with the public until May 27, 2021. Claimant was unable to work due to his medical conditions as of his original claim date of March 14, 2021. Because the claimant was unable to perform work and was under the care of a medical practitioner who had not released him as being able to work, unemployment insurance benefits funded by the State of Iowa are denied effective March 14, 2021 pursuant to Iowa Code § 96.4(3) as well.

DECISION:

The May 25, 2021 (reference 01) unemployment insurance decision is modified with no change in effect. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount after his May 20, 2020, separation date, and provided he is otherwise eligible. Unemployment insurance benefits funded by the State of Iowa are also denied effective March 14, 2021 and continuing due to the claimant being unable to work. Benefits are denied until the claimant establishes that he is able to and available for work pursuant to Iowa Code § 96.4(3).

REMAND:

The issue of whether the claimant worked in and was paid sufficient wages to be eligible for benefits in a second benefit year is remanded to the Benefits Bureau for an initial investigation and determination.



Dawn Boucher
Administrative Law Judge

August 3, 2021
Decision Dated and Mailed

db/mh