

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ODILON VARGAS  
936 – 11<sup>TH</sup> ST NE  
CEDAR RAPIDS IA 52402

FLEET MAINTENANCE SOLUTIONS INC  
2099 S PARK CT STE 2  
DUBUQUE IA 52003-8095

Appeal Number: 05A-UI-05824-CT  
OC: 04/24/05 R: 03  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1)d – Quit Due to Illness/Injury

STATEMENT OF THE CASE:

Odilon Vargas filed an appeal from a representative's decision dated May 25, 2005, reference 05, which denied benefits based on his separation from Fleet Maintenance Solutions, Inc. After due notice was issued, a hearing was held by telephone on June 20, 2005. Mr. Vargas participated personally and Exhibits A, B, and C were admitted on his behalf. The employer participated by John Musallam, Service Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Vargas began working for Fleet Maintenance Solutions, Inc. on December 27, 2004, as a full-time trailer mechanic. On or about March 14, he sustained an injury to his left hand that prevented him from working, as he is left-handed. The injury occurred away from work. He was released to return to light-duty work on March 24 but the employer did not have any such work available. He was invited to return when fully released. He advised the employer that he would have another doctor's appointment on March 31.

Mr. Vargas was kept on light-duty work when he saw the doctor on March 31. He did not contact the employer at that time. On April 25, he was released to full duty and provided a doctor's statement to the employer confirming the release. He was not allowed to return to work at that point because the employer had not heard from him since March 24.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Vargas was separated from employment for any disqualifying reason. He left the employment on March 15 because of an injury sustained away from work. He re-offered his services when initially released for light-duty work on March 24, but the employer did not have suitable work available for him. Mr. Vargas was told to return when he had a complete release, which he did. Although he provided the employer with a full release on or about April 25, he was not allowed to return to work.

The administrative law judge concludes from all of the evidence that Mr. Vargas has satisfied the requirement of Iowa Code section 96.5(1)d. He gave immediate notice that his doctor had taken him off work because of his injury. He also re-offered his services when fully released. Inasmuch as the employer did not make suitable work available when Mr. Vargas was fully released, he is entitled to job insurance benefits.

DECISION:

The representative's decision dated May 25, 2005, reference 05, is hereby reversed. Mr. Vargas was separated from employment for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjw