

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LYNN A BEAR**  
Claimant

**APPEAL NO: 09A-UI-00321-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEMP ASSOCIATES**  
Employer

**OC: 02/17/08 R: 04  
Claimant: Appellant (4)**

Section 96.5-1-d –Leave Employment Because of an Illness

**STATEMENT OF THE CASE:**

Lynn A. Bear (claimant) appealed a representative's January 7, 2009 decision (reference 03) that concluded he was not qualified to receive benefits, and the account of Temp Associates (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 January 26, 2009. The claimant participated in the hearing. Holly Jacoby 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 with the employer in December 2007. On August 26, 2008, the employer assigned the claimant to a job. The claimant did not have any problems at this assignment and the client was pleased with the claimant's work.

On November 11, 2008, the claimant left work early because he did not feel well. The claimant went to the hospital and was hospitalized over night. The claimant contacted the employer on November 12, 2008, and informed the employer and the client that as the result of a medical condition, he was unable to work. As of the date of the hearing, the claimant is still unable to work for medical reasons. The claimant understands that when he is able to work and released to work, the employer's client wants him to return to work.

**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, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The law presumes a claimant voluntarily quits employment without good cause when he leaves because

of illness not caused by the employment, but has not yet obtained a release from a physician to return to work and has not offered to return to work for the employer. 871 IAC 24.25(35). As a result of a medical condition, the claimant was restricted from working as of November 12, 2008, and has not yet been released to return to work. Even though the claimant wants to work, he is unable to work at this time. After his physician releases him to work, the claimant should contact the employer and offer to return to work. If the employer does not have work of a similar nature when the claimant has been released to work, the claimant can reopen his claim for benefits. The Claims Section would then examine a new set of facts to determine if the claimant was eligible to receive benefits.

**DECISION:**

The representative's January 7, 2009 decision (reference 03) is modified in the claimant's favor. As of November 12, the claimant did not return to his job assignment because he was ill and unable to work. As of the date of the hearing, the claimant has not been released to work and is still unable to work. Since the claimant had to leave employment on November 12 as the result of an illness, but has not yet been released to work or offered to return to work for the employer, he is not eligible to receive benefits. When the claimant's physician releases him to return to work and the claimant offers to return to work for the employer, he should at that time reopen his claim if the employer does not have any work available for him. The issue of whether the employer's account is subject to or exempt from charge cannot be decided when the claimant is unable to work for medical reasons and is ineligible to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs