

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRIS L PERRY**  
Claimant

**APPEAL NO. 07A-UI-01840-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KLEIMAN CONSTRUCTION INC**  
Employer

**OC: 03/05/06 R: 03  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 13, 2007, reference 06, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 8, 2007. Claimant participated. Employer participated by Cynthia Ferring, Office Manager and Jerry McCormick, Job Site Superintendent.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 3, 2006. Claimant suffered an off the job injury. Claimant was released to return to work but was unable to handle the job due to medical problems. Claimant asked for further medical leave. Claimant went on medication and was able to return to work December 1, 2006. Claimant went back to ask for further work but none was available. The construction had slowed during the winter months making claimant's job unavailable.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of illness. Claimant went off work due to illness. Claimant promptly informed employer of the need to be off work due to illness. Upon recovery claimant returned to ask for further work but none was available. This is a separation for cause attributable to employer because no work was available upon claimant's recovery. Benefits allowed.

Iowa Code section 96.5-1-d 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. 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.

**DECISION:**

The decision of the representative dated February 13, 2007, reference 06, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/pjs