

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KYLE A PALMER**

Claimant

**APPEAL NO. 10A-UI-09970-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARGILL MEAT SOLUTIONS CORP**

Employer

**OC: 06/06/10**

**Claimant: Appellant (4)**

Section 96.5(1) – Quit

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

The claimant, Kyle Palmer, filed an appeal from a decision dated July 7, 2010, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 31, 2010. The claimant participated on his own behalf. The employer, Cargill, participated by Human Resources Associate Jessica Sheppard.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer and whether he is able and available for work.

**FINDINGS OF FACT:**

Kyle Palmer began employment with Cargill on December 29, 2008 as a full-time production worker. He was injured in a non-work-related incident May 27, 2010, and sought medical attention. His doctor recommended surgery which he underwent June 9, 2010. He requested, and was granted, FMLA from June 7 through August 15, 2010. His doctor released him to return to work without restrictions effective August 16, 2010, and he returned to work on that date.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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.

The representative's decision found the claimant had quit work without good cause attributable to the employer. The claimant did not quit but was on an approved leave of absence. He is not disqualified for benefits.

Iowa Code section 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".

871 IAC 24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant was on a leave of absence which he requested and which the employer granted. Under the provisions of the above Administrative Code section, this is a period of time for which he is ineligible for benefits.

**DECISION:**

The representative's decision of July 7, 2010, reference 01, is modified in favor of the appellant. Kyle Palmer is ineligible for benefits for the period June 5 through August 14, 2010, because he was not able and available for work during that time due to being on a medical leave of absence.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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