

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DAKOTA IHDE**  
Claimant

**APPEAL 21A-UI-10727-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GREENSTATE CREDIT UNION**  
Employer

**OC: 03/14/21  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1)d – Voluntary Quit – Illness Unrelated to Work  
Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 8, 2021, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on July 1, 2021. The claimant participated and testified. The employer did not participate. Official notice was taken of the agency records.

**ISSUE:**

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

Whether the claimant was able and available for work after he separated from employment?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant was employed full-time as a supervisor from September 8, 2018, and was separated from employment on February 23, 2021, when he voluntarily resigned. He reported directly to Member Assistance Director Amy Stevens.

The claimant has a mood disorder. He had this impairment prior to his term of employment. The claimant's mood disorder became progressively worse during his term of employment.

In early December 2020, the claimant requested and was granted Family Medical Leave Act leave due to his mood disorder rendering him unable to perform the duties of the supervisor position. Dr. Bruce Sieleni stated the claimant's mood disorder made it difficult for him to regulate his emotions when speaking with a customer or a subordinate. The claimant remained on leave until February 23, 2021, when he exhausted all 12 weeks of his FMLA leave. Prior to his return, Human Resources Manager Pam Beckner offered to place the claimant into a full-time specialist II position which was essentially an advance customer service position.

On February 24, 2021, the claimant gave his resignation to Ms. Beckner. In his note, the claimant stated he believed his mood disorder made him unable to fulfill the needs of the employer in his current role of e specialist two.

The claimant has been looking for full-time physical or labor intensive positions in the Cedar Rapids metropolitan area since separating from employment. The claimant will not accept a position which pays less than 20 dollars per hour.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. The administrative law judge further concludes whether the claimant was able and available is moot because his separation is disqualifying.

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.

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is

reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

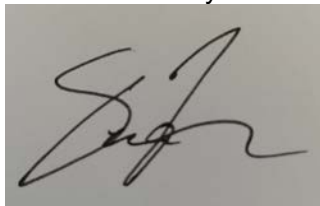
A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. *Area Residential Care, Inc. v. Iowa Department of Job Service*, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code Section 96.5-1-d means a complete recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

In this case, the claimant's illness was not caused or aggravated by his employment. Instead, the claimant alleged his illness' symptoms intensified which rendered him unable to perform his previous job duties.

The claimant left work due to his health condition under the advice of his physician. The employer consented to his leaving. The claimant has failed to provide the employer with certification that he has recovered. In addition, the claimant has failed to offer his services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits. The claimant may re-qualify by returning to the employer with an unconditional release. The claimant could then receive benefits if regular work or comparable suitable work was not available. Benefits are denied.

**DECISION:**

The April 8, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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Sean M. Nelson  
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July 8, 2021  
Decision Dated and Mailed

smn/scn