

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FLOYD D MULKEY

Claimant

APPEAL NO. 13A-UI-07515-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WESTWIND LOGISTICS LLC

Employer

OC: 06/09/13

Claimant: Appellant (1)

Section 96.5(1)d – Quit/Medical

STATEMENT OF THE CASE:

The claimant, Floyd Mulkey, filed an appeal from a decision dated June 25, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on July 30, 2013. The claimant participated on his own behalf. The employer, Westwind Logistics, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Floyd Mulkey was employed by Westwind Logistics from October 5, 2012 until May 22, 2013 as a full-time laborer. He was put on antibiotics and pain killers by his doctor on May 9, 2013, for a mouth infection. The pain medications made him groggy and he asked the supervisor and the manager for time off until he could be taken off the medications. He was denied and quit on May 22, 2013.

The doctor released him and ended his medication June 1, 2013, but Mr. Mulkey did not return to the employer to request his job back.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant quit his employment because of a non-work-related medical condition. He was released by his doctor but did not return and offer his services afterward. Under the provisions of the above Code section this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

DECISION:

The representative's decision of June 25, 2013, reference 01, is affirmed. Floyd Mulkey is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs