

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENNIS DUBOIS
Claimant

APPEAL NO: 09A-UI-01616-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

USA STAFFING INC
Employer

**OC: 12/14/08 R: 02
Claimant: Appellant (1)**

Iowa Code § 96.5-1-d - Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) - Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Dennis DuBois (claimant) appealed an unemployment insurance decision dated January 28, 2009, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with USA Staffing, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 23, 2009. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed intermittently as a temporary laborer from approximately June 2006 through October 23, 2008. He suffers from non-work-related medical conditions of chronic obstructive pulmonary disease, heart failure and sleep apnea. The claimant was in the hospital recently because of difficulty breathing and he voluntarily quit because he did not feel he could continue working.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause

attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The claimant left his employment on October 23, 2008 due to non-work-related medical conditions. Although he was not placed on medical restrictions which would have prevented him from completing his job duties, his physician told him to quit his job if he did not feel he could keep working. Unemployment insurance was "not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." White v. Employment Appeal Bd., 487 N.W.2d 342, 345 (Iowa 1992) (citing Butts v. Iowa Dep't of Job Serv., 328 N.W.2d 515, 517 (Iowa 1983)); quoted in Gilmore v. Employment Appeal Board, No. 4-670 / 03-2099 (Iowa App. 11/15/2004).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated January 28, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs