

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY W BEBO
Claimant

APPEAL NO. 07A-UI-07082-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BURRELL OIL CO INC
Employer

**OC: 06/17/07 R: 01
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Larry W. Bebo (claimant) appealed a representative's July 17, 2007 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Burrell Oil Co., Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 7, 2007. The claimant participated in the hearing. Monty Burrell, an owner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in 1996 as a full-time laborer/carpenter. The work the claimant performed was physically demanding. During the summer months, the employer works at locations that require employees to stay overnight. During the winter months, the employer works on used houses. Working on these houses involves working in very dusty conditions. The employer knew the claimant had respiratory problems. Prior to 2007, the claimant expressed he had breathing problems during the winter months because of the cold weather.

During the recent winter months, the claimant worked in a very dusty environment refurbishing or remodeling a used home. The claimant experienced breathing problems. The claimant went to his physician because of the breathing problems he experienced. The claimant concluded he was working in a moldy home and the mold aggravated his respiratory problems to the extent he could not work at that house. Sometime between February and April, the claimant told the employer he could no longer work in the house he had been working because of increased respiratory problems. The claimant also informed the employer that he and his wife decided he

would no longer be able to stay overnight as he had in previous years. The claimant indicated he could not carry as much weight as he had in the past because carrying heavy loads triggered respiratory problems and because his eyesight was not as good as it had been, the claimant was leery about getting up on roofs.

The employer accommodated the claimant's work restrictions while there was still work in town. The employer assigned the claimant to another job and he no longer worked at the house where he had been working. Starting in May and June the majority of the employer's work was out-of-town. The employer talked to the other owners of the business to decide if the employer had work that would accommodate all the claimant's recent work limitations. The employer decided the employer was unable to accommodate all of the claimant's work restrictions primarily because the employer's workload required the claimant to work out-of-town.

In early May, the employer told the claimant that because he was no longer willing to work out-of-town and stay overnight, the employer was unable to continue the claimant's employment. The employer indicated the claimant could work until the end of May to give the claimant an opportunity to apply for disability benefits. The claimant did not work after May 25, 2007.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant initiated his employment separation when he told the employer he would no longer work at locations that required him to stay overnight. While the employer accommodated all the other work limitations, the employer's work in late May and June required employees to work out-of-town and stay overnight at jobsites. The claimant quit his employment when he declined to work out-of-town as he had done in previous years.

The law presumes a claimant voluntarily quits employment without good cause when he leaves employment because of the commuting distance. 871 IAC25(30). In this case, the claimant knew in the summer the employer's business required employees to stay overnight at job locations that were out-of-town. In reality, the claimant quit when he informed the employer he would no longer work out-of-town. The employer allowed the claimant to work until the employer's work required the claimant to work out-of-town. The claimant's decision that he would no longer stay overnight at job locations because his wife wanted to be with him in case he had an asthma attack is a compelling reason for quitting. For unemployment insurance purposes, this reason does not qualify him to receive unemployment insurance benefits. Since the claimant quit for reasons that do not qualify him to receive unemployment insurance benefits, the claimant is not qualified to benefits as of June 17, 2007.

DECISION:

The representative's July 17, 2007 decision (reference 01) is affirmed. The claimant voluntarily quit his employment for compelling personal reasons that do not qualify him to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of June 17, 2007. This disqualification continues until he has been paid

ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css