

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAHAMADOU TANDIA
Claimant

APPEAL NO. 13A-UI-04946-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE HON COMPANY
Employer

OC: 04/07/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 23, 2013, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. Telephone hearings were held on June 3 and 6, 2013. The parties were properly notified about the hearings. The claimant participated in the hearing. Debra Campbell participated in the hearing on behalf of the employer with a witness, Kourtney Fox. Exhibit A was admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked full time for the employer as a welder from March 28, 2011, to October 19, 2012. Starting October 22, 2012, the claimant was granted and received a personal leave of absence to travel to Mali in Africa, because of his wife's medical condition. Under the leave of absence, he was required to return to work on January 14, 2013.

The claimant's wife required hospitalization due to having surgery from January 15 to February 28. He called Kourtney Fox, member and community relations business partner, on January 21, 2013, and left a voice mail stating that he was not able to return to his job. He did not state when he was planning to return to work and did not provide any way of contacting him because he was not using his own phone and phones are scarce where he was at in Mali.

Because the claimant failed to return to work after his leave of absences, the employer considered him to have voluntarily quit employment, and Fox sent him a letter informing him that his employment had ended on January 28.

The claimant did not return after February 2013, because his wife had a second surgery on March 1, which required her to be hospitalized from March 1 to April 3. He did not call the employer regarding this second hospitalization.

The claimant returned to Iowa on April 5, 2013. He found the letter stating his employment had ended. He did not contact Fox but instead asked to speak to another member and community relations business partner, named Hollie. He was not able to speak to her. He has not personally contacted management to offer to return to work.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The unemployment insurance rules (871 IAC 24.22(2)j(1)(2)(3)) state that:

A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed. 871 IAC 24.22(2)j(1)(2)(3).

In this case, the claimant did not return to work after his leave of absence and is considered to have voluntarily quit. The next question is whether the claimant is qualified under Iowa Code § 96.5-1-c, which provides: "But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The evidence does not show that the claimant immediately returned to and offered to return to work for the employer. The claimant is, therefore, disqualified from receiving benefits in this case.

DECISION:

The unemployment insurance decision dated April 23, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs