

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GERALD L STERNAGEN
Claimant

APPEAL NO. 14A-UI-10013-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONTRACT TRANSPORT INC
Employer

OC: 08/31/14
Claimant: Appellant (2/R)

871 IAC 24.1(113) – Other Separations

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 22, 2014, reference 01, decision that disqualified him for benefits. After due notice was issued, a hearing was held on October 15, 2014. The claimant participated personally and was represented by attorney Timothy Sweet. Jeane Neible represented the employer. Exhibit A was received into evidence.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies him for benefits or that relieves the employer of liability for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time commercial truck driver from 1993 and last performed work for the employer on August 25, 2014. At that point, the claimant involuntarily separated from the employment because he was a diabetic and was on injectable insulin. He did not, therefore, meet the medical requirements to be eligible to operate a commercial vehicle under the United States Department of Transportation regulations. The claimant did not voluntarily quit the employment. The employer did not discharge the claimant from the employment.

REASONING AND CONCLUSIONS OF LAW:

Workforce Development rule 871 IAC 24.1(113), provides as follows:

All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

- b. Quits. A quit is a termination of employment initiated by the employee for any reason except mandatory retirement or transfer to another establishment of the same firm, or for service in the armed forces.
- c. Discharge. A discharge is a termination of employment initiated by the employer for such reasons as incompetence, violation of rules, dishonesty, laziness, absenteeism, insubordination, failure to pass probationary period.
- d. Other separations. Terminations of employment for military duty lasting or expected to last more than 30 calendar days, retirement, permanent disability, and failure to meet the physical standards required.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. See 871 IAC 24.25.

The claimant's separation from the employment falls into that category known as "other separations." The claimant did not voluntarily separate from the employment. The claimant involuntarily separated from the employment due only to his inability to meet the physical standards required. The claimant's physical condition did not constitute misconduct in connection with the employment. Because the claimant's separation was neither a voluntary quit nor a discharge for misconduct, the separation did not disqualify the claimant for benefits. See Iowa Code section 96.5(1) (regarding voluntary quits) and 96.5(2)(a) (regarding discharges for misconduct). The claimant is eligible for benefits provided he is otherwise eligible. The employer's account may be charged.

The evidence raises the issue of whether the claimant has been able to work and available for work within the meaning of the law since he established his claim for benefits. This matter is remanded to the Benefits Bureau for adjudication of those issues.

DECISION:

The September 22, 2014, reference 01, decision is reversed. The claimant neither quit nor was discharged from the employment in August 2014. The claimant's separation falls into the category of "other separations" and was due his inability to meet the physical requirements of the employment. The employer's account may be charged for benefits paid to the claimant. This matter is remanded to the Benefits Bureau for adjudication of the able and available issues.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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