

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KYLE M DOWNING
Claimant

APPEAL NO. 13A-UI-03958-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BENNETT MACHINE & FABRICATING INC
Employer

OC: 03/03/13
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 25, 2013, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 7, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Laura Scharosch participated in the hearing on behalf of the employer with a witness, Aleshia Wiese.

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 CNC machinist from September 27, 2011, to February 4, 2013.

The claimant had been on leave under the Family and Medical Leave Act (FMLA) for several different medical conditions in 2012 and 2013. His latest leave was due to medical issues with his lower back that would flare up. When the claimant applied for FMLA for his back condition, he said he had hurt his back while working on his car. His doctor certified him for intermittent FMLA due to his back condition.

The claimant was on FMLA due to his back condition after February 4. On February 14, the human resources assistant, Aleshia Wiese, contacted the claimant to notify him that he would be exhausting the leave available under the FMLA and to find out what he intended to do. The claimant's doctor had suggested that he find a different line of work. As a result, the claimant informed Wiese that he would not be returning to work.

The claimant voluntarily quit his employment because he believed his job was causing his back problems. He never reported to the employer that his back condition was caused by his job or filed a worker's compensation claim. The claimant has not presented any medical evidence that his job caused or aggravated the medical condition and made it impossible for him to continue in employment due to a serious health danger.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1 and 96.5-2-a.

There are two situations where the law grants benefits to a claimant who leaves employment for health reasons.

First, the unemployment insurance law provides that individual is qualified to receive benefits if he: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that he needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but his regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d.

This statute does not grant benefits to the claimant because although he said he left work with advice from his physician, he has not offered to return to work after recovering from his health problems.

Second, the unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

This rule does not grant benefits to the claimant because there was no medical evidence presented that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger. He never reported a work-related injury, and when he requested FMLA, stated the problem was due to an off-the-job injury. In addition, the claimant never informed the employer that he intended to quit unless his back condition was reasonably accommodated.

DECISION:

The unemployment insurance decision dated March 25, 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