IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU

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

RAMONCITO S SADIWA
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL NO. 19A-UI-04999-JTT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 05/26/19
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Ramoncito Sadiwa filed a timely appeal from the June 18, 2019, reference 01, decision that disqualified him for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Mr. Sadiwa voluntarily quit on May 31, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on July 23, 2019. Mr. Sadiwa participated. Christy Chappelier represented the employer and presented additional testimony through Melissa Vanscyoc. The hearing in this matter was consolidated with the hearing in Appeal Number 19A-UI-05001-JTT. Exhibits A and B and Department Exhibits D-1 through D-4 were received into evidence.

ISSUE:

Whether Mr. Sadiwa's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ramoncito Sadiwa was employed by Tyson Fresh Meats, Inc. as a full-time line production worker from 2016 until May 31, 2019, when he voluntarily quit for health reasons. Mr. Sadiwa last performed work for the employer on May 10, 2019. From May 2017 until the end of the employment, Mr. Sadiwa worked primarily as a trimmer. The work involved trimming fat off pieces of meat. The pieces of meat weighed two to five pounds. Mr. Sadiwa's work regular work hours were 4:30 p.m. to about 1:00 a.m., Monday through Friday. The work required that Mr. Sadiwa stand for extended periods. The employer provided Mr. Sadiwa with a 15-minute paid break at about 7:00 p.m. and a 30-minute unpaid meal break at about 10:00 p.m. If production lasted longer than 6.5 hours, the employer would provide Mr. Sadiwa with another 15-minute paid break. The employer would also assign Mr. Sadiwa to open boxes of meat. The boxes weighed 80 pounds. Mr. Sadiwa would have to flip the boxes to dump the contents onto the production line.

During at least the last several months of the employment, Mr. Sadiwa was suffering from uncontrolled hypertension. In November 2018, Mr. Sadiwa suffered a minor stroke. Toward the end of the employment, Mr. Sadiwa and his doctor were experimenting with different blood pressure medications in an attempt to get Mr. Sadiwa's blood pressure under control.

Mr. Sadiwa often felt dizzy at work and had to leave work before the end of his shift. Before Mr. Sadiwa worked his last day on May 10, 2019, he requested intermittent leave under the Family and Medical Leave Act so that he could address his hypertension issues as needed. Mr. Sadiwa's health care provider certified Mr. Sadiwa's need for intermittent leave. The employer approved FMLA intermittent leave. Mr. Sadiwa did not request any other accommodations in the workplace.

Toward the end of the employment, Mr. Sadiwa was suffering from cervical pain/strain that his health care provider attributed to the repetitive work Mr. Sadiwa performed for the employer. Mr. Sadiwa would report to the nurses' station as needed so that the nursing staff could put Biofreeze on his neck. The Biofreeze alleviated Mr. Sadiwa's neck pain for the remainder of the shift.

On May 9, 2019, Mr. Sadiwa sought treatment for his blood pressure at an emergency room. The medical provider released Mr. Sadiwa to return to work on May 10, 2019 without restrictions.

Prior to resigning from the employment on May 31, 2019, Mr. Sadiwa was off work for two weeks for an approved vacation. On May 17, 2019, Sadiwa saw his health care provider regarding his neck pain. The health care provider provided Mr. Sadiwa with a document that stated as follows:

> It is my professional medical opinion that Ramoncito Sadiwa has cervical pain/strain due to repetitive work at his job. He is trying to get other work to alleviate his pain please provide him with light duty activities for the next two weeks. No lifting over 10 lbs pushing or pulling repetitively (over 30 minutes at a time) without breaks.

Though Mr. Sadiwa cites the uncontrolled hypertension as the primary basis for his quit, the May 17, 2019 medical note made no mention of Mr. Sadiwa's hypertension. Mr. Sadiwa did not return and perform additional work for the employer. Mr. Sadiwa brought the May 17, 2019 note with him when he reported to the workplace on May 31, 2019 for the purpose of notifying the employer that he was resigning from the employment. Despite the note that supported the need for light-duty accommodations for two weeks following May 17, 2019, Mr. Sadiwa did not request accommodations during the May 31 contact. During that contact, Christy Chappelear, Complex Human Resources Manager, attempted to persuade Mr. Sadiwa to remain in the employment. Ms. Chappelear reminded Mr. Sadiwa that he had used a minimal amount of the approved intermittent leave. Mr. Sadiwa elected to leave the employment. Neither the May 17 note nor any other medical documentation Mr. Sadiwa provided to the employer indicated that the health care provider had advised him to leave the employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)d provides:

> An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:
>
> 1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

> d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Administrative Code rule 817-24.26(6) provides as follows:

> Separation because of illness, injury, or pregnancy.
> a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.
> b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.
> In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work–related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

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 weight of the evidence in the record establishes a voluntary quit without good cause attributable to the employer. This is regardless of whether one concludes that medical issues that prompted the quit were work-related or non-work related. Mr. Sadiwa presented insufficient evidence to prove, by a preponderance of the evidence that his quit was based on a medical condition caused by the employment or aggravated by the employment. Mr. Sadiwa presented insufficient evidence to prove that a licensed and practicing physician or the equivalent advised him to leave the employment, that it was medically necessary for him to leave the employment, or that it was impossible for him to continue in employment because of serious danger to his health. The only accommodation Mr. Sadiwa actually requested was the intermittent FMLA leave, which the employer approved. The documentation associated with the recent emergency room visit released Mr. Sadiwa to return to work. The May 17 medical note was limited to the

two-week period following May 17. That two-week period had essentially expired by the time Mr. Sadiwa presented the note to the employer.

Because the evidence establishes a voluntary quit without good cause attributable to the employer, Mr. Sadiwa is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. Mr. Sadiwa must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The June 18, 2019, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The quit was effective May 31, 2019. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to 10 times his weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

_____
James E. Timberland
Administrative Law Judge

_____
Decision Dated and Mailed

jet/rvs