

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICKY A STUMBAUGH
Claimant

DECKER TRUCK LINE INC
Employer

APPEAL 15A-UI-09119-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/12/15
Claimant: Appellant (1)

Iowa Code § 96.5(1)d – Voluntary Quitting/Illness or Injury
Iowa Admin. Code r. 871-24.25(35) – Separation Due to Illness or Injury
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 4, 2015, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 31, 2015. Claimant participated. Employer participated through health and benefits manager, Andrea Kloberdanz and vice president of human resources, Brenda McNealey. Employer's Exhibits 1 through 7 were received.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a refrigerator van truck driver from May 14, 2014, and was separated from employment on May 18, 2015, when he resigned.

On May 14, 2015, claimant told Kloberdanz he wanted to resign because he failed the medical examination mandated by the Department of Transportation. Claimant told Kloberdanz that he had too many medical issues to deal with and he was not going to be able to continue driving. Claimant's medical issues were not work related. Kloberdanz asked claimant if he wanted to take a 30-day medical leave to attempt to resolve his medical issues and pass the physical. Claimant declined employer's offer of medical leave. Kloberdanz asked claimant to take a few days to think it over. On May 18, 2015, claimant spoke with Kloberdanz again. Claimant stated he wanted to resign.

Claimant has since been released to work, but did not return to employer to offer his services. Claimant is looking for work closer to his residence.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is separated from the employment without good cause attributable to employer.

Iowa Code § 96.5(1)d provides:

An individual shall be disqualified for benefits:

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 Admin. Code r. 871-24.25(35) provides:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

Here, claimant failed to return to employer and offer services upon recovery and certification for work by a licensed and practicing physician. Thus, his quit is considered without good cause attributable to employer.

DECISION:

The August 4, 2015, (reference 01) decision is affirmed. Claimant is separated from the employment without good cause attributable to employer. Benefits are withheld until such time as he works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

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