

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**PIERRE J LANHAM**  
Claimant

**APPEAL NO. 18A-UI-01318-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**C/O EQUIFAX: USPS**  
Employer

**OC: 08/06/17**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Pierre Lanham filed a timely appeal from the January 26, 2018, reference 07, decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the Benefits Bureau deputy's conclusion that Mr. Lanham voluntarily quit on December 22, 2017 without good cause attributable to the employer. After due notice was issued, a hearing was held on February 22, 2018. The hearing in this matter was consolidated with the hearing in Appeal Number 18A-UI-01804-JTT. Mr. Lanham participated. The employer did not respond to the hearing notice instructions to register a telephone number for the hearing and did not participate. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant and received Exhibits A and B into evidence.

**ISSUE:**

Whether Mr. Lanham'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: Pierre Lanham was employed by the United States Postal Service (USPS) as a full-time, temporary seasonal mail handler from December 9, 2017 until December 22, 2017, when he voluntarily quit. At the time Mr. Lanham accepted the offer of employment, the anticipated end date of the temporary employment was set as January 5 or 6, 2018. At the time Mr. Lanham applied for and accepted the employment, he was aware that the employment would entail lifting boxes weighing up to 60 pounds. A couple years prior to the employment, Mr. Lanham was diagnosed with a "frozen" shoulder and underwent physical therapy to resolve that issue. Mr. Lanham applied for and accepted the USPS employment under the belief that he would be able to perform the work duties despite his earlier shoulder issues. Mr. Lanham performed the USPS work without incident or concern until two to three days before he quit. At that time, Mr. Lanham began to experience shoulder pain. Mr. Lanham determined that he would need to leave the employment. Mr. Lanham did not consult a doctor regarding his shoulder pain and his decision to leave the employment was not based on advice received from a doctor. On Friday, December 22, 2017, Mr. Lanham notified his supervisor that he was quitting the employment due to his shoulder pain. Mr. Lanham did not ask the employer for any workplace

accommodations in connection with his shoulder pain. Mr. Lanham did not present the employer with medical documentation to support a need for workplace accommodations or in support of his decision to leave the employment prior to the anticipated end date. Mr. Lanham's shoulder pain resolved within a week of Mr. Lanham leaving the employment. Mr. Lanham did not attempt to return to 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.

Workforce Development rule 817 IAC 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 evidence in the record establishes a voluntary quit, effective December 22, 2017, that was without good cause attributable to the employer. Because there is no medical evidence to establish a causal connection between the work and the shoulder pain, the administrative law judge will analyze the quit in the alternative both as if there was a causal connection and as if the pain was a non-work related medical condition. If the shoulder pain was caused or aggravated by the employment, it would be necessary for Mr. Lanham to prove it was necessary to leave the employment to avoid serious danger to his health. The evidence does not establish such risk of serious danger. If the shoulder pain was caused or aggravated by the employment, the quit could not be deemed for good cause attributable to the employer unless Mr. Lanham first informed the employer that he intended to quit unless the employer provided him reasonable accommodations so that he could continue in the employment. Mr. Lanham did not have that discussion with the employer. If the shoulder pain was a non-work related issue, Mr. Lanham would have to prove that he left the employment upon the advice of a licensed and practicing physician. He would then have to prove that he recovered from the condition, was released by a doctor to return to the employment, that he returned to the employer with proof of recovery, that he asked for his job back, but that employer did not allow him to return to the employment. Mr. Lanham does not get past the first prong of that test because his quit was not based on advice from a licensed and practicing physician.

Because the voluntarily quit was from full-time employment and was without good cause attributable to the employer, Mr. Lanham is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount. Mr. Lanham must meet all other eligibility requirements. The employer's account shall not be charged.

**DECISION:**

The January 26, 2018, reference 07, decision is affirmed. The claimant voluntarily quit the employment on December 22, 2017 without good cause attributable to the employer. The claimant is disqualified for benefits until he has worked in and been paid wages for insured work equal to ten 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