

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LARRY D FRY
PO BOX 9385
CEDAR RAPIDS IA 52409-9385

PRAIRIE CREEK NURSERY
ATTN KEVIN K BAILEY
4100 BOWLING ST SW
CEDAR RAPIDS IA 52404

Appeal Number: 05A-UI-06754-CT
OC: 06/05/05 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Prairie Creek Nursery filed an appeal from a representative's decision dated June 22, 2005, reference 01, which held that no disqualification would be imposed regarding Larry Fry's separation from employment. After due notice was issued, a hearing was held by telephone on July 27, 2005. Mr. Fry participated personally. The employer participated by Kevin Bailey, Owner.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Fry began working for Prairie Creek Nursery on

March 25, 2004 and last performed services on April 15, 2005. He was employed full time as a laborer. He left work on April 15 to undergo hernia surgery. During the surgery, it was discovered that he had additional hernias that had not previously been detected. As a result, his doctor advised that he not return to work that required heavy lifting. He is limited to lifting no more than 20 to 25 pounds on a repetitive basis.

Mr. Fry was released by his doctor on June 18 and notified the employer of this fact on or about June 23. The employer did not have work available that did not involve heavy lifting. Therefore, Mr. Fry became separated from the employment. Continued work would have been available if he had been physically able to perform the heavy lifting required by the job.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Fry was separated from employment for any disqualifying reason. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Good cause for quitting need not be based on some fault or wrongdoing on the part of the employer and may be attributable to the employment itself. Raffety v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). Mr. Fry quit his employment because he could no longer meet the physical demands of the job. He quit on the advice of his doctor. Given his medical history and the heavy lifting required in the job, it is more likely than not that continuing in the employment posed a serious risk to his health. The employer did not have work available that would accommodate Mr. Fry's physical limitations. For the above reasons, it is concluded that he had good cause attributable to the employment for quitting. See 871 IAC 24.26(6)b. Accordingly, benefits are allowed.

Mr. Fry filed his claim for job insurance benefits effective June 5, 2005, prior to his release to return to work. Because he was not released by his doctor until June 18, he is entitled to benefits effective Sunday, June 19, 2005.

DECISION:

The representative's decision dated June 22, 2005, reference 01, is hereby affirmed. Mr. Fry was separated from Prairie Creek Nursery for no disqualifying reason. Benefits are allowed effective June 19, 2005, provided he satisfies all other conditions of eligibility.

cfc/pjs