

Soy Specialties, Inc. from July 2003 until he resigned August 11, 2005. He last worked full-time as a general laborer. On or about July 23, 2005 Mr. Walters injured his foot on a weekend outing that was not related to his employment. He called President Craig Smith the following Monday to report that he would be unable to return to work. Mr. Smith told Mr. Walters to let him know when he was able to return to work. On August 11, 2005 Mr. Walters left a phone message saying that he would not return to employment at Soy Specialties because he and Mr. Smith did not sufficiently appreciate one another. Mr. Smith was unaware of any conflicts between him and Mr. Walters. Work was available upon Mr. Walters' healing had he not resigned.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Walters resigned with good cause attributable to the employer. It does not.

Iowa Code section 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.

The claimant has the burden of proof. See Iowa Code section 96.6-2. The statute provides that an individual who resigns because of a medical condition neither caused nor aggravated by working conditions may under some circumstances receive unemployment insurance benefits after the individual has returned to the employer with an unrestricted release to return to work. Benefits are allowed at that point if the employer has no comparable suitable work or the individual's regular job available. It is clear from the evidence that Mr. Walters did not return to Soy Specialties with an unrestricted release. He terminated his employment prior to his release because he felt that he and Mr. Smith did not appreciate one another. One who resigns because of dissatisfaction with the work environment or because of a conflict with a supervisor leaves employment without good cause attributable to the employer according to rules found at 871 IAC 24.25(21) and (22). Benefits must be withheld.

DECISION:

The unemployment insurance decision dated August 31, 2005, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

srs/kjw