

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONNIE C RATHJEN
Claimant

APPEAL NO. 12A-UI-07023-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

OC: 05/20/12
Claimant: Appellant (2)

Section 96.5-2-a – Discharge
Section 96.4-3 – Able to and Available for Work
Section 96.5-3-a – Failure to Accept Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 8, 2012, reference 01, that concluded he voluntarily quit employment without good cause. A telephone hearing was held on July 9, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Victoria Spain participated in the hearing on behalf of the employer.

ISSUES:

Was the claimant discharged for work-connected misconduct?
Was the claimant able to and available for work?
Did the claimant fail to accept an offer of suitable work without good cause?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked on a one-time assignment at General Mills working as a laborer from December 6, 2011, to May 6, 2012.

On April 25, 2012, the claimant was examined by an orthopedic doctor regarding hip pain. The doctor told him that he would eventually need hip replacement surgery but it was not an emergency and could wait until he wanted it done. The doctor released the claimant to work without restrictions. During a phone call with the on-site supervisor about a scheduling question, the claimant off-handedly mentioned his doctor's visit and his need for future hip replacement surgery. The supervisor instructed the claimant to go to the main office and file workers' compensation paperwork. The claimant went in and filed out the paperwork because he was instructed to but never intended to apply for workers' compensation or see a workers' compensation doctor. During the visit to the office, he mentioned to the staffing consultant that he had problems being on his feet for eight hours. As a result, the staffing consultant told the on-site supervisor to take the claimant off the schedule. The claimant contacted the employer afterward about getting back on the schedule but was not put back to work.

On June 1, 2012, the staffing consultant sent the claimant an email about a computer position. The claimant responded that he did not have the necessary skills for such a job.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The claimant never quit his employment. The employer taking him off the schedule because he said he had problems standing for eight hours is what caused his unemployment. He was also not discharged for misconduct so he is qualified for benefits based on his separation from work.

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. At the point the claimant applied for benefits, the orthopedic doctor had released him to return to work without restrictions. He was able to work despite a need for surgery in the future.

In order for an offer of work to be valid for unemployment insurance benefits purposes, the offer must be made personally or by registered mail. 871 IAC 24.24(1)a. An email offer does not satisfy the unemployment insurance rules.

DECISION:

The unemployment insurance decision dated June 8, 2012, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs