

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LIONEL G LOVEJOY
Claimant

APPEAL NO. 09A-UI-11131-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

**WINNEBAGO TRIBE OF NEBRASKA
WINNAVEGAS**
Employer

OC: 06/28/09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Lionel G. Lovejoy filed a timely appeal from an unemployment insurance decision dated July 24, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a hearing was held in Sioux City, Iowa September 15, 2009. Casino Manager Brad Appleton, Pit Supervisor Kathy Gossage and Shift Supervisor Tony Dam participated for the employer, Winnavegas. Mr. Lovejoy did not respond when paged at the time of the hearing. There was no contact from the claimant while the hearing was in progress. Documents submitted by the claimant and provided to the employer were admitted into the record as Exhibits A and B. Employer Exhibit One was also admitted into the record.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Lionel G. Lovejoy was employed by Winnavegas from August 8, 2006 until he resigned May 27, 2009. He last worked as a table games dealer. He resigned because of a medical condition that restricted the amount of time that he could stand. He had not requested an accommodation from the employer that would enable him to work while seated or take breaks more frequently. He has not returned to the employer with an unrestricted release to return to work.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant left work with good cause attributable to the employer. It does not.

Iowa Code section 96.5-1 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.

Under some circumstances, an individual may receive unemployment insurance benefits after resigning because of a medical condition. If the medical condition is neither caused nor aggravated by working conditions, the individual may receive benefits by returning to the employer with an unrestricted release to return to work. If the individual's regular work or comparable suitable work is not available, the individual may then receive unemployment insurance benefits. See Iowa Code section 96.5-1-d.

If the medical condition leading to resignation was caused or aggravated by working conditions, the individual may receive unemployment insurance benefits if, prior to resigning, the individual first put the employer on notice of the medical condition and advised the employer that the individual would resign if no accommodation could be arranged. Then, the individual must give the employer a reasonable amount of time to make an accommodation. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). The evidence here does not establish that Mr. Lovejoy sought an accommodation from the employer.

Given the evidence in this record, the administrative law judge concludes that the claimant has not met the conditions necessary for receiving unemployment insurance benefits following his resignation for a medical condition.

DECISION:

The unemployment insurance decision dated July 24, 2009, 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 or until he has returned to the employer with an unrestricted release to return to work and no suitable work is available.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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