

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIMOTHY L SCHULTZ
Claimant

APPEAL NO: 14A-UI-07865-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JET CO INC
Employer

OC: 07/13/14
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.4(3) – Ability to and Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 29, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he quit for reasons that do not qualify him to receive benefits. The claimant participated at the August 21 hearing. Sandy Loney, the director of human resources, appeared on the employer's behalf. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

Is the claimant able to and available for work?

FINDINGS OF FACT:

The employer hired the claimant to work as a full-time welder in January 2013. The claimant injured his back in mid-October 2013. The claimant's injury was submitted to the employer's workers' compensation carrier. Until the workers' compensation carrier denied the claimant's claim, the employer accommodated his work restrictions. The claimant worked for the employer until January 8, 2014.

When the employer no longer accommodated his work restrictions, the claimant went on a medical leave of absence (FMLA). This leave ended on April 3, 2014. The employer extended his leave until he was released to work. The employer told the claimant that when he was released to work, he could return to work as long as he could meet all the essential duties of his job. The employer understood that one essential duty of the claimant's job as a welder was to lift 20 to 50 pounds. The essential job functions dated April 30, 2014, state two essential job functions were infrequently lifting 80 to 100 pounds and carrying 60 to 100 pounds ten feet. (Claimant Exhibit A.) The claimant understood that if he did not meet all the essential duties of his job, he would not have job.

The claimant knew his physician was going to release him to return to work with a permanent work restriction – not lifting more than 20 pounds continuously. The claimant's physician released him to work on July 16, 2014. Since the claimant had a permanent work restriction and had been told he could not return to work until he could perform all job duties without accommodations, he emailed his resignation to the employer on July 14, 2014 with an effective date of July 16, 2014.

The claimant established a claim for benefits during the week of July 13, 2014. He has filed weekly claims and has been looking for work in which he has prior experience. The claimant is looking for full-time employment as a cook, a clerk at a convenience store and clerical work. The claimant has prior work experience doing these jobs.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant is eligible to receive benefits when he is compelled to leave because of a condition attributable to the employment. A claimant is eligible for benefits if compelled to leave as a result of an injury suffered on the job. To be eligible to receive benefits, a claimant must present adequate health reasons to justify termination. Also, before he quits, the claimant must inform the employer that he intends to quit unless reasonable accommodations are made. 871 IAC 24.26(6)b.

The facts indicate the employer would not make any accommodations for the claimant after his workers' compensation claim was denied. The employer also told the claimant when he was on a leave of absence that he could return to work only after he was released to work and could perform all the essential job functions of his position. Since the claimant has a permanent work restriction, he reasonably concluded the employer would not allow him to return to work on July 16, 2014. The employer verified the claimant could not to return to work at his former position with his work restriction. And the employer had no other positions for him. For all practical purposes, the claimant was compelled to quit his employment for reasons that qualify him to receive benefits when the employer could not accommodate his permanent work restrictions.

In the alternative, the employer decided the claimant's work restrictions would not be accommodated for business reasons. Even though the employer had business reasons for not allowing the claimant to work until he could perform all essential job functions, the claimant did not commit work-connected misconduct.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a). As of July 13, 2014, the claimant is qualified to receive benefits.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). Although the claimant can no longer work as welder for the employer, he established that he is looking for work he is capable of performing and has prior experience doing. The claimant established that he is currently able to and available for work and is not looking for a tailor-made job. If the claimant has another surgery, he may not be eligible to receive benefits until he is again released to work. The claimant is obligated to either stop filing if he has another surgery or provide information to the Department to determine if he remains eligible to receive benefits.

DECISION:

The representative's July 29, 2014 determination (reference 01) is reversed. The claimant was compelled to quit for medical reasons when the employer could not accommodate his work restrictions. The claimant established that he is able to and available for work since he is looking for work in which he has experience and meets his permanent work restrictions. As of July 13, 2014, the claimant is qualified and eligible to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css