

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANIGAN S KELLEY

Claimant

APPEAL NO. 07A-UI-03951-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARLEY'S & SATHERS CANDY CO INC

Employer

**OC: 04/01/07 R: 04
Claimant: Respondent (1)**

Section 96.5-2-a – Suspension – Non-disqualifying Separation

STATEMENT OF THE CASE:

Farley's & Sathers Candy Company, Inc. (employer) appealed a representative's April 13, 2007 decision (reference 01) that concluded Branigan S. Kelley (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been laid off from work on March 30, 2007. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 2, 2007. The claimant participated in the hearing. Robin Beech-Travis, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 25, 2005. The claimant worked full time. The employer requires employees to work overtime hours. After many weeks of overtime, the employer discovered numerous employees presenting the employer with a doctor's statement indicating the employee could only work 8 hours a day or 40 hours a week. Since the employer required employees to work overtime, the employer started informing employees the employer could not meet these accommodations and the employee could not work until he was released to work without any work restrictions. When the employee could again perform all functions of the job, including working overtime, the employer allowed the employee to return to work.

The claimant's back had been bothering him for a while. The claimant had previously gone to several doctors for his back problem. Some doctors restricted the claimant from working less than 40 hours a week and others imposed a weight restriction of not lifting more than 25 pounds. The claimant did not give these restrictions to the employer.

On March 30, 2007, the claimant gave the employer a doctor's statement indicating the claimant could not work more than 8 hours a day or 40 hours a week. The employer could not make these accommodations for the claimant and the claimant could not work. The employer indicated that when the claimant could work overtime, he could return to work. The claimant was off work from April 2 through 27, 2007. The claimant returned to work the week of April 30, 2007. The claimant established claim for benefits during the week of April 1, 2007.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. In this case, the claimant did not quit and the employer did not discharge him. The claimant was, however, unemployed about a month because his doctor restricted him from working more than 40 hours a week. When the employer would not accommodate these work restrictions, the employer suspended or laid off the claimant because he was unable to work more than 40 hours a week or all functions of his job. Being unable to work does not amount to work-connected misconduct. Therefore, as of April 1, 2007, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's April 13, 2007 decision (reference 01) is affirmed. When the claimant presented the employer with a work restriction that he was unable to work more than 40 hours a week, the employer suspended the claimant from work until he was again able to work more than 40 hours a week. The employer suspended the claimant for business reasons that do not constitute work-connected misconduct. As of April 1, 2007, the claimant is qualified to receive unemployment insurance benefits. The employer's account may be charged for benefits to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw