

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAHIR ABDI
Claimant

APPEAL NO: 10A-UI14728-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PSI GROUP INC
Employer

OC: 08/29/10
Claimant: Appellant (1)

Iowa Code § 96.5-1-d - Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) - Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Dahir Abdi (claimant) appealed an unemployment insurance decision dated October 22, 2010, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with PSI Group, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 15, 2010. The claimant participated in the hearing. Hamdi Sahal interpreted on behalf of the claimant. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time associate from October 15, 2008 through July 28, 2010. He was injured in a non-work-related incident and was released with permanent medical restrictions from his treating physician which prevent him from completing the essential functions of his position without accommodation. The claimant contends the injury was work related but he never reported it to his employer, does not have a worker's compensation claim, and sought treatment through a personal physician.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

Iowa Code § 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.

871 IAC 24.25(36) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

The claimant could no longer carry out the essential functions of his position as of July 22, 2010 due to a non-work-related medical condition. He contends he is no longer working due to a work-related medical injury or condition but there is insufficient evidence to support that contention. The claimant never reported an injury to his employer, does not have a worker's compensation claim, and sought treatment through a personal physician.

While the employer did not participate in the hearing, it provided a document to the claimant which the claimant introduced into evidence. This letter confirms the employer could not accommodate the claimant's restrictions and that he should work with the employer to find an alternate position within his restrictions. The letter further states that if the claimant cannot find an alternate position, he could go on short-term disability, which is not available to employees with a work-related injury.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated October 22, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css