

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

PATRICK M WHEELER  
930 SE 3<sup>RD</sup> ST  
ANKENY IA 50021

SHAVER RELOCATION SERVICES  
ATTN DONALD BRIAN SHAVER  
2801 NW 5<sup>TH</sup> ST  
PO BOX 586  
ANKENY IA 50021

Appeal Number: 04A-UI-08665-CT  
OC: 07/18/04 R: 02  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1)d – Separation Due to Illness/Injury

STATEMENT OF THE CASE:

Patrick Wheeler filed an appeal from a representative's decision dated August 10, 2004, reference 01, which denied benefits based on his separation from Shaver Relocation Services (Shaver). After due notice was issued, a hearing was held by telephone on September 1, 2004. Mr. Wheeler participated personally and offered additional testimony from Christina Sadler. Exhibits A through E were admitted on Mr. Wheeler's behalf. The employer participated by Brian Shaver, Owner. Exhibits One and Two were admitted on the employer's behalf.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Wheeler began working for Shaver in August of 2003 as a full-time furniture mover. On May 15, 2004, he and a coworker, Brandon Hilgerson, were involved in a car accident after work. Mr. Wheeler telephoned Jeremy Williams, who was out of state with Brian Shaver, on May 15 to advise him of the accident. On May 16, Mr. Shaver spoke with Mr. Hilgerson who indicated that Mr. Wheeler had suffered some contusions as a result of the accident. Mr. Hilgerson reported for work on May 17 but Mr. Wheeler did not. The employer spoke with him on May 18, at which time he indicated he did not know if or when he might be able to return to work. He did indicate that he would not be able to come back for "a while." The employer did not request medical documentation of the need to be absent. Mr. Wheeler was not told that he needed to contact the employer at any particular intervals.

Mr. Wheeler was in contact with the employer approximately three weeks after the accident and again indicated that he was not sure when he would be able to return to work. He was told that the employer would have to replace him. On or about June 23, Mr. Wheeler was released to return to work without restrictions. He left a note to this effect on the seat of Mr. Shaver's van. The employer did not have work for him because he had been replaced.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Wheeler was separated from employment for any disqualifying reason. He left work for medical reasons after he was involved in a car accident. The employer was immediately made aware of the need to be absent. Although Mr. Wheeler and his witness testified that medical excuses were provided to the employer before the June 23 release, the administrative law judge finds to the contrary. Their testimony was conflicting. Moreover, the individual they say the paperwork was given to and the location where they say it was given was contrary to the employer's testimony that the office location had changed over the weekend of Mr. Wheeler's injury. Although Mr. Wheeler and his witness may have given false testimony regarding providing the employer with doctor's excuses, the fact remains that documentation was not requested by the employer. Therefore, the failure to provide the documentation before June 23 was not fatal to his claim. It is true that Mr. Wheeler did not make frequent contact with the employer while he was off work. However, he was not told that he had to make contact with any particular frequency.

Mr. Wheeler re-offered his services to the employer after he was fully released to return to work. However, no work was available as the employer had already replaced him. Inasmuch as suitable comparable work was not available when he re-offered his services after recovering from his injury, no disqualification is imposed. Benefits are allowed pursuant to Iowa Code Section 96.5(1)d.

#### DECISION:

The representative's decision dated August 10, 2004, reference 01, is hereby reversed. Mr. Wheeler was separated from employment for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/pjs