

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHARI A BRADFIELD
Claimant

APPEAL NO: 12A-UI-07880-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KAKAR INC
Employer

OC: 06/03/12

Claimant: Respondent (2/R)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

Kakar, Inc. (employer) appealed a representative's June 25, 2012 decision (reference 01) that concluded Shari A. Bradfield (claimant) was qualified to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 23, 2012. The claimant participated in the hearing. Erin Barr 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 voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer's predecessor owner in late 2001, and began working for this employer when ownership was transferred in about February 2002. She worked full time as assistant manager of the employer's Shenandoah, Iowa, McDonald's restaurant. Her last day of work was May 18, 2012. She voluntarily quit as of that date.

In about August or September 2011, the claimant reported having knee problems she asserted were caused or aggravated from her work conditions. She had surgery on September 29, and was off work for five weeks. When she returned to work, she had no work restrictions imposed by her doctor.

In the spring of 2012 the claimant felt that her knee problems were again increasing. She did not return to her doctor at that time, nor did she make any reports to her employer that she felt the work was causing further problems with her knee. She did not indicate she was seeking any specific accommodations for a medical issue, and she did not inform the employer that she was contemplating quitting unless she was granted some accommodation. She was not advised by her doctor that she needed an accommodation or that the work was causing the continued problem and that she should quit. Rather, shortly after reporting for work on May 18 she decided to quit; she left without informing the employer as to why she was quitting.

The claimant established a claim for unemployment insurance benefits effective June 3, 2012. The claimant has received unemployment insurance benefits after the separation.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, she would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Under some circumstances, a quit for medical or health reasons is attributable to the employer. Iowa Code § 96.5-1. Where factors and circumstances directly connected with the employment caused or aggravated an employee's illness, injury, allergy, or disease can be good cause for quitting attributable to the employer. 871 IAC 24.26(6)b. However, in order for this good cause to be found, prior to quitting the employee must present competent evidence showing adequate health reasons to justify ending the employment, and before quitting must have informed the employer of the work-related health problem and inform the employer that the employee intends to quit unless the problem is corrected or the employee is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not presented competent evidence showing adequate health reasons to justify her quitting. Further, before quitting she did not inform the employer of the work-related health problem and inform the employer that she intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

The unemployment insurance law provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. However, the overpayment will not be recovered when it is based on a reversal on appeal of an initial determination to award benefits on an issue regarding the claimant's employment separation if: (1) the benefits were not received due to any fraud or willful misrepresentation by the claimant and (2) the employer did not participate in the initial proceeding to award benefits. The employer will not be charged for benefits whether or not the overpayment is recovered. Iowa Code § 96.3-7. In this case, the claimant has received benefits but was ineligible for those benefits. The matter of determining the amount of the overpayment and whether the claimant is eligible for a waiver of overpayment under Iowa Code § 96.3-7-b is remanded the Claims Section.

DECISION:

The representative's June 25, 2012 decision (reference 01) is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. As of May 18, 2012, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the overpayment issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw