

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA L RICKMAN**  
Claimant

**APPEAL NO: 14A-UI-01440-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AMERISTAR CASINO CO BLUFFS INC**  
Employer

**OC: 01/12/14**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.3(7) – Overpayment of Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's February 4, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant voluntarily quit her employment for reasons that qualify her to receive benefits. The claimant participated in hearings on February 28 and March 7. James Rickman, her husband, testified on her behalf. Beth Crocker represented the employer. Tammy Spearman and Imelda Carlson testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in February 2012. As of April or May 2013, the claimant worked no more than 32 hours a week. In January 2013 and on May 22, 2013, the claimant injured herself at work. After the claimant injured her back on May 22, she reported back to work on June 13, 2013. Her doctor released her to return to work with work restrictions. The employer did not allow the claimant's supervisor, Carlson, to look at the work restrictions. Instead, the claimant had to give all her medical documents to the employer's benefits administrator, Elizabeth. Even though Carlson did not receive a copy of the work restrictions, she understood the claimant was not supposed to work more than five hours a day and could not lift more than fifteen pounds. The claimant's work restrictions actually indicated she was not to lift more than eight pounds, bend or stoop and was not to work more than five hours a day.

The employer did not consider the claimant's injury as work related or covered under workers' compensation until after September 15, 2013. Since the employer did not initially consider the claimant's work restrictions the result of a work injury, the employer told her on June 17 that the employer could not accommodate her work restrictions. This meant that if she was in pain, she

could go home, but she would accumulate attendance points and her failure to work as scheduled would not be excused.

The claimant did not want to be discharged for attendance issues. In late June or early July 2013, she submitted FMLA paperwork to Elizabeth. After the claimant's May injury, she asked to leave work early when work was slow. Even though she had been allowed to leave work early prior to May 22, the employer did not allow her to leave work early after mid-June 2013. Carlson knew the claimant was in pain when she worked after June 17. There were days the claimant could hardly move after she finished working. The employer did not make any accommodations for her even though the employer knew the claimant was in pain while she worked. Since the claimant's department was short-staffed, she understood she would not be allowed to transfer to another department. As a result of being short-staffed the claimant could not take time off for a vacation.

In mid-August 2013, the claimant understood her doctor advised her to quit or her back would not get any better. Shortly after the claimant saw her doctor, she asked Elizabeth about the status of her FMLA. The claimant then learned the employer had not yet granted her FMLA because the employer wanted more information from her doctor.

The claimant and her husband lived with their daughter and son-in-law for financial reasons. When their son-in-law no longer worked for the military, he and his wife decided to move to Tennessee where he had family. The claimant did not foresee the situation at work getting any better because the employer did not consider her back condition the result of a work-related injury. Since the claimant could not work as many hours as she had been and her back was not getting any better, she and her husband decided to also move to Tennessee. The claimant gave the employer a two-week notice and she worked until the effective of her resignation, September 15, 2014. Sometime after September 15, the employer then considered the claimant's back problems as the result of a work-related injury. When the claimant resigned, she only told Elizabeth that she quit because she felt the employer forced her when the employer would not follow her work restrictions.

The claimant established a claim for benefits during the week of January 12, 2014.

#### **REASONING AND CONCLUSIONS OF LAW:**

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

The law presumes a claimant quits without good cause when she leaves to move to another locality. 871 IAC 24.25(2). The law also presumes a claimant quits with good cause when she is compelled to leave as a result of a work-related injury. 871 IAC 24.26(6)b.

After the claimant's employment ended, the employer accepted the fact the claimant had a work-related injury. The claimant's testimony is credible and the employer's witnesses verified the claimant was required to give her medical notes to Elizabeth. Since Elizabeth did not testify, the evidence establishes the claimant properly informed the employer about her work restrictions. Since the employer did not initially accept the claimant's injury as a work-related injury, the employer told the claimant that the employer's policy did not require the employer to accommodate her work restrictions. The claimant established she quit in part for good cause attributable to the employer when the employer did not accommodate her work restrictions.

The claimant also quit, because she did not have a home to live in after her daughter moved. The situation may have been different if the claimant had been given time for her back to heal. Quitting to relocate does not qualify the claimant to receive benefits. Since she also quit because of a work-related injury and the employer would not accommodate her work restrictions, the claimant established that she is eligible to receive benefits.

**DECISION:**

The representative's February 4, 2014 determination (reference 01) is affirmed. The claimant voluntarily quit for a reason that qualifies her to receive benefits. As of January 12, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css