

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY JO FROST
Claimant

APPEAL NO. 07A-UI-06213-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

OC: 12/24/06 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Mary Jo Frost (claimant) appealed a representative's June 12, 2007 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Pella Corporation (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her 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 9, 2007. The claimant participated in the hearing. Richard Carter, a representative with TALX, appeared on the employer's behalf. Julie Wolfe, a human resource representative, Tyler Garret, the department manager, and John Finn testified 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 her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in January 2005. The claimant has always worked as a flex employee, or where the employer needs her. After the claimant returned from a layoff, the employer assigned the claimant to the door department. The claimant did not like working on the machine the employer assigned to her in this department. Although the claimant worked with a new machine, there were times it did not work correctly. When the claimant's equipment did not work correctly, she had to use her hands to complete her work.

During the last one to two weeks of her employment, the claimant's arm started hurting her. The claimant talked to her utility person and the facilitator about getting other people trained on the machine she used so she would not have to work on it constantly. The claimant wanted to rotate jobs as other employees did. The claimant believed that if she could work another job for part of her shift, her arm would not bother her. The claimant understood the utility worker and facilitator were going to try to get another employee trained on her job. Although the claimant thought these people understood that her arm hurt as a result of the job she was doing, no one

reported the claimant had problems with her arm to Garrett. This is the procedure when an employee indicates she is experiencing a medical problem as a result of a particular job. If Garrett had known the claimant's arm started hurting he would have had her examined by the employer's nurse to find out if she needed medical treatment or should be assigned to another job. The claimant never went to the employer's nurse to report the pain she experienced in her arm. The claimant thought she would be discharged if she complained about pain in her arm.

On May 23, 2007, the utility person or the facilitator told the claimant it would be a couple of more days until the employer could send anyone to train on the claimant's equipment. The claimant was very frustrated this day because co-workers kept telling her to hurry up with her job so they could do their work; employees were being trained on jobs around her, her arm hurt and the employer told her no one would be training on her machine for a few more days. The claimant became so upset about the situation she concluded she could not do the job any longer. The claimant was frustrated with the delay about training other employees to do her job. The claimant left work at the 7:00 p.m. break instead of working until 3:00 a.m. When the claimant left on May 23, she had no intention of returning to work.

Later, the claimant learned Garrett had no idea that the job she did hurt her arm or that her medical condition may have been covered by worker's compensation. The claimant reopened her claim for benefits during the week of May 27, 2007.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable other 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 unemployment insurance benefits. Iowa Code § 96.6-2. When the claimant left work early on May 23 at the 7:00 p.m. break, she voluntarily quit her employment.

The law presumes a claimant voluntarily quits with good cause when she quits because continued employment jeopardizes the claimant's health and the claimant is compelled to quit. The claimant must present competent evidence that she had adequate health reasons to justify terminating her employment. Before a claimant quits for health-related reasons, she must inform the employer about the health-related problems and give the employer an opportunity to make reasonable accommodations before she quits. 871 IAC 24.26(6)(b). The claimant informed her utility person and facilitator that the job she was assigned to do hurt her arm. The claimant asked for an opportunity to rotate to another job during her work shift. The claimant did not inform the employer she would quit if accommodations were not made by a certain date. Since the claimant never saw the employer's nurse or a doctor, the facts do not establish that her most recent job in the door department injured or aggravated her arm to the extent her arm hurt or that continuing to work at that job would result in serious injury to the claimant's health. The claimant did not satisfy the requirements of 871 IAC 24.26(6)(b).

The claimant established compelling personal reasons for quitting. On May 23, she became very frustrated and upset with the situation at work when her arm was hurting. On May 23, 2007, the claimant quit for reasons that do not qualify her to receive unemployment insurance benefits.

Since the claimant is not qualified to receive unemployment insurance benefits based on the reasons for her employment separation, the issue of whether she is able to and available for work does not need to be addressed at this time. If in the future, the claimant is found qualified

to receive benefits as of May 27, 2007, or some subsequent date, the Claims Section can at that time investigate and determine whether the claimant is able to and available for work.

Whether the employer's account is subject to charge during the claimant's current benefit was determined when the claimant established her claim during the week of December 24, 2006.

DECISION:

The representative's June 12, 2007 decision (reference 02) is affirmed. The claimant voluntarily quit her employment for personal reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of May 27, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css