

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMANDA O SPEED
Claimant

APPEAL NO: 09A-UI-16988-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLMAN DYNAMICS INC
Employer

OC: 10/11/09

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Amanda O. Speed (claimant) appealed a representative's October 30, 2009 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Wellman Dynamics, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 17, 2009. The claimant participated in the hearing and presented testimony from one other witness, John Wilson. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. During the hearing, Claimant's Exhibits A, B, and C were entered into evidence. Based on the evidence, the arguments of the claimant, 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 without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on April 20, 2008. She worked full time as a rotary file grinder. Her last day of work was on or about June 22, 2009. On or about June 24 the claimant called the employer's human resources person and told her that "things were not working out," that she would not be returning to the employment.

Since about October 2008, the claimant had been having some pain in her wrists. On February 5 she went to her doctor on an unrelated medical question but also inquired of the doctor as to whether she might have carpal tunnel. The doctor recommended a nerve study be done for a definite diagnosis. However, the claimant did not follow through on having the nerve study done, as a union person suggested to her that she should have the company pay for the test. The claimant did mention to her supervisor that she was having pain and that the doctor had recommended the nerve study, but the supervisor had put her off, indicating it would be looked into. As a result, when the claimant went back into her doctor for a follow-up appointment on March 5, she had not gone through with the nerve study that had been set up

previously by the doctor. He advised her that if her condition truly was carpal tunnel syndrome, it would be in her best interest to have that well documented.

The doctor rescheduled the nerve test and prescribed some narcotic pain reliever. He gave her a wrist splint but did not otherwise impose any work restrictions on her. It does not appear that the claimant ever went through with having the nerve test. The doctor has never made a specific diagnosis of the claimant having carpal tunnel, nor has the doctor ever specified any connection between the claimant's wrist problems and her work.

On or about March 8, 2009 the claimant went on FMLA due to the illness of an aunt for whom she cared. It is unclear how long the claimant was off work during that FMLA leave. Having treated the claimant on April 10, on April 17, 2009 the claimant's doctor approved another FMLA request, back dated to April 1, 2009. The duration of the condition was to be two to three months. The reason for the leave was stated as: "recent death of an aunt she was close to. Recent separation from husband. Involved with DHS over care of their children. Recent move to new town/new house. These factors lead to episodes of overwhelming stress. She may need occasional 2-3 days off to organize her life and deal with the stress."

The claimant was still on this intermittent FMLA when she quit her employment. Although not cited by the doctor, the claimant asserted that her wrist pain, which the claimant attributed to the work place, was also contributing to the stress, as was a resulting dependence on pain medication, for which she believed the employer should have sent her for addiction treatment. While the claimant had some level of communications with the employer's human resources personnel during her FMLA periods, she had not alerted anyone in human resources to the wrist issue or the doctor's recommendation for a nerve study. Before quitting she did not advise the employer that she had a condition she believed was work-related and that she was going to quit if the employer did not correct the problem or accommodate the condition.

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 medical evidence to establish that her medical conditions were in fact caused or aggravated by the work place. Further, before quitting she did not inform the employer that she intended to quit unless the problem was corrected or reasonably accommodated. Accordingly, under the statute and the rule the separation is deemed to be without good cause attributable to the employer and benefits must be denied.

DECISION:

The representative's October 30, 2009 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of June 24, 2009, 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.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs