

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA A STORY
Claimant

APPEAL NO: 12A-UI-01426-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AVENTURE STAFFING & PROFESSIONAL
Employer

OC: 12/25/11
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 6, 2012 determination (reference 02) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. Kayla Neuhalfen and Glen Burgett appeared on the employer's behalf. During the hearing, Employer Exhibits One and Two were offered and admitted as evidence. A document the claimant asked to be admitted had not been forwarded to the employer. The claimant testified about the information on the document that she wanted on the record. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant registered to work for the employer's clients. The employer assigned the claimant to a production job at Montezuma Manufacturing on December 5, 2011. The claimant worked as a punch press operator at this assignment. After the claimant finished her shift on December 21, she told the on-site supervisor, Burgett, she was having problems with her back, back spasms.

The claimant went to the emergency room on December 21. The claimant called the employer on December 22 to report she was unable to work because of muscle spasms in back. (Employer Exhibit One.) The claimant saw a doctor on December 22 for her back. She had another appointment for her back with another doctor on December 29. On January 3, 2012, the claimant called Burgett and told him she could not return to work because her back still bothered her.

After seeking medical treatment, the claimant learned she may have a spinal disease. On January 5, 2012, the claimant informed the employer she had to quit because she could no

longer do production work. The employer understood the claimant quit because of her back problems. The claimant did not finish the assignment.

The claimant's doctor(s) did not advise her to quit. As of March 1, 2012, the claimant does not have any work restrictions, but she has an appointment with another doctor in early April. The claimant's job required her to bend and stretch which the claimant concluded aggravates her back problems.

The claimant established a claim for benefits during the week of December 25, 2011. The claimant is not looking for production work in which she has 18 years of experience. The claimant is looking for work as a cashier at a video store or work at a clothing store.

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 with good cause when she is compelled to leave because employment aggravates a condition that makes it impossible for the claimant to continue employment without a seriously jeopardizing the claimant's health. To establish eligibility under this regulation, a claimant must present competent evidence that establishes adequate health reasons to justify terminating the employment and before quitting the claimant must inform the employer about her health-related problems to find out if the employer can or will make any accommodations. 871 IAC 24.26(6)b.

The facts establish the claimant experienced back spasms on December 21, 2011. The claimant went to doctors for her back problems, but none of the doctors she saw before March 1, 2012, advised her to quit. The doctors did not give her any medical restrictions. The claimant did not ask the employer if any accommodations could be made so she could continue working. The claimant understood there was the possibility she had a serious spinal disease. She did not want to work at a job that had the potential of causing her more back problems. The claimant concluded that she as a result of her issues with her back she should not lift very much or bend very much.

The claimant established personal reasons for quitting, but for unemployment insurance purposes she did not establish that she quit for reasons that qualify her to receive benefit. The claimant did not establish the requirements of 871 IAC 24.26(6)b. As of December 25, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's February 6, 2012 determination (reference 02) is affirmed. The claimant voluntary quit her employment, but she did not establish she quit for reasons that qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits

as of December 25, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css