

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JULIA K GENDREAU
Claimant

CAT SCALE COMPANY
Employer

APPEAL 21A-UI-00450-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/23/20
Claimant: Appellant (2)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

On November 23, 2020, the claimant filed an appeal from the November 17, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 8, 2021. Claimant participated. Employer did not register for the hearing and did not participate. Claimant's Exhibit A was received.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?
Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in January 2019. Claimant last worked as a full-time maintenance technician. Claimant was separated from employment on August 4, 2020, when she resigned.

In May 2020, claimant was injured on the job. Claimant was carrying a beam and it started falling. Claimant went to catch it and injured her left shoulder. Claimant reported the injury to employer immediately. Claimant saw a doctor and was sent home with a lifting restriction. Employer continued to pay claimant wages and for her medical treatment.

On July 6, 2020, claimant saw the doctor again and the doctor recommended claimant resign because the job required heavy duty lifting and the doctor did not believe claimant would be able to perform that type of work with the injury she had.

Claimant presented those findings to employer. Employer understood claimant would not be able to continue in the job unmodified and did not have any other work to offer. Claimant was separated from employment.

Claimant has two years of experience doing clerical work. Claimant is able to perform clerical work with her restrictions and is searching for that type of work.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether claimant's separation from employment disqualifies her from receiving unemployment insurance benefits.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

In this case, claimant was injured on the job and a medical professional recommended she not continue in the position due to the heavy lifting requirements. Claimant notified employer of the injury and the recommendation of the medical professional. Employer did not offer light duty work and claimant was separated from employment. Claimant was separated from employment with good cause attributable to employer.

The next issue is whether claimant is able to and available for work.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

In this case, claimant is looking for clerical work and has experience doing clerical work. Claimant's medical restrictions do not prevent her from performing clerical work. Therefore, she has established she is able to work.

DECISION:

The November 17, 2020, (reference 01) unemployment insurance decision is reversed. Claimant was separated from employment with good cause attributable to employer. Claimant is able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.



Christine A. Louis
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February 22, 2021
Decision Dated and Mailed

cal/mh