

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYL STROUD
Claimant

APPEAL NO: 10A-UI-13618-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC
Employer

OC: 08/22/10
Claimant: Respondent (1)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Dollar General (employer) appealed an unemployment insurance decision dated September 21, 2010, reference 01, which held that Cheryl Stroud (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 17, 2010. The claimant participated in the hearing. The employer participated through Diane Stack, Third Key Lead Sales Associate. 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:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits ?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time sales associate from August 10, 2009 through August 8, 2010. She sustained a work-related injury and was under work restrictions. The employer told her she would have to quit if she could not carry out the essential functions of her position. Her job duties required her to lift 50 pounds and she was restricted to lifting no more than 25 pounds.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

871 IAC 24.26(21) 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:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The claimant quit her employment on August 8, 2010 instead of being discharged. She was going to be discharged because she was not physically able to carry out her essential duties due to a work-related injury. This does not constitute work-related misconduct.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has satisfied that burden and benefits are allowed.

DECISION:

The unemployment insurance decision dated September 21, 2010, reference 01, is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css