

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHAUNA M SUDMAN
Claimant

APPEAL NO. 08A-UI-10551-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMERICAN METER CO
Employer

**OC: 09/28/08 R: 01
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated November 4, 2008, reference 01, which denied benefits based upon her separation from American Meter Company. After due notice was issued, a hearing was held by telephone on November 25, 2008. Ms. Sudman participated personally. Although duly notified, the employer did not respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from approximately October 2007 until April 10, 2008 when she voluntarily quit employment. Ms. Sudman was employed on a full-time basis and was paid by the hour. The claimant was most recently assigned to work in the company's lapping department.

Ms. Sudman quit her employment with American Meter on April 10, 2008 without advanced notice because she felt that her job assignment continued to cause her arm pain. The claimant had been assigned to light duty for a period of time but had been fully released by her physician to return to her normal job duties. Ms. Sudman made complaints to her immediate supervisor regarding her arm but did not indicate that she would quit her job if an accommodation was not offered by the employer. The claimant was not required to leave employment by her doctor. Work continued to be available to Ms. Sudman at the time that she chose to leave employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Sudman's reasons were attributable to the employer. It does not.

The evidence in the record establishes that the claimant had been released to return to her regular job assignment by a medical practitioner. The claimant had completed rehabilitation for the work-related condition but felt that the job assignment continued to cause her arm pain.

Although Ms. Sudman brought her dissatisfaction to her immediate supervisor, the claimant testified that she did not tell her supervisor or the company that she would quit her job if the problem was not corrected or she was not reasonably accommodated. The claimant left work without notice on April 10, 2008. Work continued to be available to Ms. Sudman at the time of her leaving.

871 IAC 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 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.

For the reasons stated herein, the administrative law judge concludes the claimant was not advised to leave her employment by a physician and that the claimant did not inform the employer that she intended to quit because of the work problem unless she were accommodated.

DECISION:

The representative's decision dated November 4, 2008, reference 01, is affirmed. The claimant voluntarily quit work for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided that she is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs