IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

HALI WILLIAMS
Claimant

WAL-MART STORES INC
Employer

APPEAL NO: 14A-UI-10033-ET

ADMINISTRATIVE LAW JUDGE DECISION

OC: 08/24/14
Claimant: Appellant (1)

Iowa Code Section 96.5(1)d – Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 16, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 15, 2014. The claimant participated in the hearing. The employer did not respond to the hearing notice by providing a phone number where it could be reached at the date and time of the hearing as evidenced by the absence of a name and phone number on the Clear2There screen showing whether the parties have called in for the hearing as instructed by the hearing notice. The employer did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant voluntarily left her position due to a non-work-related injury or illness.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time non-coveyable associate for Wal-Mart from January 14, 2014 to August 20, 2014. The claimant was pregnant and notified the employer. Around the week of August 17, 2014 the claimant fell to her knees while lifting a television in the warehouse and bruised her knees. She reported the incident to the employer and it completed an incident report and sent the claimant back to work. After working for one hour the claimant told the employer the pain was worse so she was sent to the front office and given an ice pack for each knee and sent back to work. The following day the claimant returned to work but her knees were still bothering her. She asked her supervisor if she could leave and was given permission to do so. She went to her doctor and explained how she hurt her knees.

The claimant did not have any lifting restrictions prior to seeing her physician but he placed her on a 25-pound lifting restriction. The claimant notified the employer of her restrictions and was told the employer did not offer light-duty work for pregnancy. The employer did offer the claimant family and medical leave (FML) but the claimant declined to use it and voluntarily left her employment August 20, 2014. The claimant has not yet received a full medical release from the treating physician.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant separated from her employment without good cause attributable to the employer.

Iowa Code § 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:
>
> d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.25(35) provides:

> Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:
>
> (35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:
>
> (a) Obtain the advice of a licensed and practicing physician;
>
> (b) Obtain certification of release for work from a licensed and practicing physician;
>
> (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
>
> (d) Fully recover so that the claimant could perform all of the duties of the job.

While the claimant was prompted to go to the doctor originally because of the bruising to her knees suffered at work, this was not a long-term injury that would have prevented the claimant from working for more than a few days. She was pregnant, however, and her pregnancy, not the bruising to her knees, caused her doctor to place her on lifting restrictions for the remainder

of her pregnancy. The claimant's pregnancy is a non-work-related medical condition and consequently the employer is not required to accommodate a non-work-related medical condition in the way that it is obligated to accommodate a work-related injury or illness. The claimant voluntarily quit her job before being released to return to full work duties. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

DECISION:

The September 16, 2014, reference 01, decision is affirmed. The claimant's separation was without good cause attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder
Administrative Law Judge

_____
Decision Dated and Mailed

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