

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 05A-UI-11370-S2T
OC: 10/09/05 R: 02
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Christine Farris (claimant) appealed a representative's October 27, 2005 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with C.E.C. Entertainment (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 21, 2005. The claimant was represented by Jack Pennington, Attorney at Law, and participated personally. The employer did not provide a telephone number where it could be reached and, therefore, did not participate. The claimant offered one exhibit which was marked for identification as Exhibit A. Exhibit A was received into evidence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on September 15, 1993, as a full-time general manager. In mid-2005, the claimant's working conditions caused her stress, anxiety, and severe depression. She sought treatment and notified the employer of her medical issues and that her medical issues were work-related. The employer granted the claimant Family Medical Leave but did not have the claimant complete workers' compensation paperwork. The claimant advised the employer of the cause of her stress, but the employer did nothing to remedy the situation. The claimant's Family Medical Leave expired on October 12, 2005. The claimant was released to return to work, but the claimant's physician advised the claimant not to return to her work with the employer. The claimant submitted her letter of resignation on October 11, 2005. The claimant resigned due to work-related medical problems that were not resolved by the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with good cause attributable to the employer.

Iowa Code section 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.

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 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.

Where disability is caused or aggravated by the employment, a resultant separation is with good cause attributable to the employer. Shontz v. IESC, 248 N.W.2d 88 (Iowa 1976). The claimant resigned alleging a medical condition caused by working conditions. The Supreme Court held that in medical resignations, the claimant must first give the employer notice of the problem and an opportunity to remedy it. Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). The claimant has met the requirements of Suluki v. EAB, 503 N.W.2d 402 (Iowa 1993) by notifying the employer of the physician's advice. She quit work due to a medical condition caused by her work. Benefits are allowed.

DECISION:

The October 27, 2005, reference 01, decision is reversed. The claimant voluntarily left employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

bas/kjw