

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LORA J WOOD**  
Claimant

**APPEAL NO. 09A-UI-07522-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELECTRONIC DATA SYSTEMS CORP**  
Employer

**Original Claim: 10-18-08  
Claimant: Appellant (1)**

Iowa Code § 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 May 12, 2009, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on June 9, 2009. The claimant did participate. The employer did not participate. Claimant's Exhibit A was received. Department's Exhibit D-1 was received.

**ISSUE:**

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a customer service representative, full-time, beginning December 1, 2008, through April 20, 2009, when she voluntarily quit her employment. The claimant quit because she found the job too stressful. She had also given the employer a work restriction for a back injury (non-work-related) that asked the employer to allow her to stand up and walk once per hour. The employer did not want to comply with the non-work-related back injury work restriction.

The claimant's treating psychiatrist, Sharon L. Koele, M.D., provided information to the agency indicating that as of May 10, 2009, she had not and did not tell the claimant to quit her job nor did she believe that the claimant's medical condition, recurrent major depressive disorder/dysthymia, was work related. (See Department's Exhibit D-1).

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left 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.

871 IAC 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 § 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 § 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.

The claimant has not established that her illness was work-related, as is her burden. Thus, she must meet the requirements of the administrative regulation cited above. She did not present evidence in writing to the employer that the physician suggested leaving the employment. The claimant's treating physician has indicated to the agency that she did not advise the claimant to quit her job. The claimant has not established good cause attributable to the employer for quitting her employment. Thus, benefits are denied.

**DECISION:**

The May 12, 2009, reference 03, decision is affirmed. The claimant voluntarily left her employment 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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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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