

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DARLINDA K FOSTER
Claimant

APPEAL NO. 07A-UI-01722-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHER CARE SERVICES
Employer

**OC: 01/21/07 R: 02
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit
871 IAC 24.26(6)b – Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 14, 2007, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on March 6, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. June Asher participated in the hearing on behalf of the employer. Exhibits A and B were admitted into evidence at the hearing.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked for the employer as a certified nursing assistant (CNA) from June 24, 2004, to January 23, 2007. One of the physical requirements of the job is the ability to lift up to 100 pounds, which is necessary when a CNA lifts a resident.

The claimant aggravated an existing low back condition on November 25, 2005. The claimant was given light-duty work in the laundry for about six months, but returned to CNA work in August 2006 after being released by the workers' compensation doctor and worked about 20 to 30 hours per week.

As a result of the workers' compensation case, the claimant was sent for an independent medical examination on January 10, 2007. Based on that examination, the doctor concluded that the claimant had sustained a work-related injury as a result of conditions at work aggravating a pre-existing back condition. The doctor concluded that the claimant had permanent restrictions of avoiding repetitive bending, twisting, and lifting and lifting no more than 20 pounds on a frequent basis.

On January 25, 2007, the claimant spoke with the human resources manager, June Asher. She informed her about the results of the doctor's evaluation and the restrictions the doctor had

placed on her. She told Asher that she would have to quit if the employer was unable to accommodate her restrictions. Asher informed the claimant that the employer could not accommodate her permanent restrictions and asked that she put her resignation in writing. The claimant then submitted her written resignation.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that she intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The evidence establishes that the claimant met each of the requirements of 871 IAC 24.26(6)b and, therefore, is not subject to disqualification based on her quitting employment.

DECISION:

The unemployment insurance decision dated February 14, 2007, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css