

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRI L HARDER
Claimant

APPEAL NO. 06A-UI-08905-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

**OC: 08/13/06 R: 01
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 28, 2006, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on September 20, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Jennifer Giebel participated in the hearing on behalf of the employer with a witness, Brian Krysl.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked as a cashier for the employer from August 20, 2003, to December 28, 2005. She voluntarily left employment because for the last month and a half of her employment she was experiencing problems with sharp pains in her feet and legs that she believed were attributable to standing for long periods of time on concrete floors. She did not see a doctor regarding her condition. She had spoken to supervisors about having anti-fatigue mats installed in the cashier's area. The supervisors said they would get back to her regarding her request, but when they did not get back to her and she was informed about another job possibility, she submitted her two weeks' notice that she was quitting effective December 28, 2005.

The claimant had not received a definite offer of work at the time she quit employment. Instead, she was informed that she could be hired if business picked up, but that job opportunity never developed.

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.

First, the law provides that individuals are not disqualified to receive unemployment insurance benefits if they leave employment to accept another job, provided that the person performs services in the new employment. Iowa Code section 96.5-1-a. This does not apply because not only did the claimant not perform services for the new employer but it was a job possibility not a definite offer of work.

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 claimant has not satisfied this requirement either because she did not see a doctor or inform the employer that she had a work-related medical condition. The law also allows someone to leave employment due to illness or injury but required the leaving to be based on a doctor's advice. Iowa Code section 96.5-1-d.

The claimant has not shown intolerable working conditions and quit because the supervisor did not get back to her about her request for anti-fatigue mats, without pursuing the matter further, which would have been a reasonable next step before taking the drastic action of quitting her job.

DECISION:

The unemployment insurance decision dated August 28, 2006, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs