

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**VICTORIA A ARVIDSON**  
Claimant

**EQUIFAX INC**  
Employer

**APPEAL 19A-UI-05218-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/02/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
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 an appeal from the June 19, 2019, (reference 01) decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 24, 2019. Claimant participated. Employer participated through Amanda Logsdon, Supervisor; Shawn Malaney, Supervisor; Mollie Prasad; Vice-President of Human Resources and was represented by Kristen Beck of Equifax.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a global fulfillment associate beginning on August 6, 2018 through June 4, 2019, when she resigned. The claimant chose to resign because the job was too stressful for her, she was having some personal health issues and she did not want to work overtime. While the claimant indicates her doctor recommended she quit her job, she did not provide any written document signed by her doctor to either her employer or for the appeal hearing.

The claimant was having issues with low blood sugar. During a meeting on May 23, claimant was told that she could apply for FMLA leave. She did not qualify for the leave. She did not pursue any other type of leave from the employer. Claimant never asked the employer for any accommodation due to her low blood sugar issues.

When the claimant gave her verbal notice of intent to resign to Ms. Logsdon, she told her the job was too stressful and her doctor had recommended she resign. Ms. Logsdon told the claimant that the employer would work with her on any medical accommodations she might need, but claimant still chose to resign.

The claimant was treated the same as all other employees. No overtime is required by the employer for any employee. The claimant thought it would be held against her if she did not work overtime. The employer never punished the claimant for not working overtime.

At her exit interview on June 4, the claimant met with Ms. Prasad. Ms. Prasad told the claimant the employer would work with her to accommodate any medical restriction she had. Ms. Prasad offered to let the claimant withdraw her resignation, but the claimant told her she wanted to resign.

### **REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 96.5(1)d provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Employment Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

The statute provides an exception where:

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 Code § 96.5(1)(d).

Section 96.5(1)(d) specifically requires that the employee has recovered from the illness or injury, and this recovery has been certified by a physician. The exception in section 96.5(1)(d) only applies when an employee is fully recovered and the employer has not held open the employee's position. *White*, 487 N.W.2d at 346; *Hedges v. Iowa Dep't of Job Serv.*, 368 N.W.2d 862, 867 (Iowa Ct. App. 1985); see also *Geiken v. Lutheran Home for the Aged Ass'n*, 468 N.W.2d 223, 226 (Iowa 1991) (noting the full recovery standard of section 96.5(1)(d)).

In the present case, the evidence clearly shows Gilmore was not fully recovered from his injury until March 6, 2003. Gilmore is unable to show that he comes within the exception of section 96.5(1)(d). Therefore, because his injury was not connected to his employment, he is considered to have voluntarily quit without good cause attributable to the employer, and is not entitled to unemployment ... benefits. See *White*, 487 N.W.2d at 345; *Shontz*, 248 N.W.2d at 91.

The claimant has not established that the injury was work related, as is her burden. Thus, she must meet the requirements of the administrative regulation cited above. Claimant did not present evidence in writing to the employer that a physician suggested leaving the employment and no work restrictions were in force. The employer gave the claimant the option to pursue medical accommodation but the claimant chose not to do so. Under these circumstances, the claimant's leaving is without good cause attributable to the employer. Benefits are denied.

**DECISION:**

The June 19, 2019, (reference 01) decision is affirmed. The claimant voluntarily quit the 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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