

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHERYL M DERR**  
Claimant

**APPEAL NO. 08A-UI-06839-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HCM INC**  
Employer

**OC: 06/29/08 R: 02  
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit  
Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 24, 2008, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 11, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Gary Wagner participated in the hearing on behalf of the employer.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?  
Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a housekeeper from March 21, 2007, to December 24, 2007. Her job involved some cleaning residents' rooms including sweeping and mopping room, moving furniture, and lifting heavy garbage sacks and other items.

The claimant was off work due to kidney problems unrelated to her work after December 24, 2007. She was excused from working by her doctor. On January 14, 2008, the claimant informed the employer that she was quitting her employment. She quit her employment because she had unresolved medical problems and did not know when she would be able to work again.

After the claimant informed the employer that she was quitting, her doctor diagnosed her with a hernia and related injuries that required surgery to repair. Her gynecologist informed her that the heavy lifting she did on the job contributed to injury. The claimant never informed the employer prior to quitting that she had a work-related injury.

The claimant had surgery on May 1 and as of June 2, 2008, she was released to return to work without restrictions by her doctor. The claimant has not contacted the employer and offered to return to work.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue in this case is whether the claimant is disqualified from receiving benefits under Iowa Code section 96.5-1 because she voluntarily quit employment without good cause attributable to the employer.

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 the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has not satisfied the requirements of 871 IAC 24.26(6)b. She did not find out that her medical problems were related to her work until after she quit. She did not inform the employer before quitting of the work-related medical condition and request accommodations.

The unemployment insurance law provides that individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code section 96.5-1-d.

The evidence shows the claimant left work due to an injury and notified the employer of her need to be off work. She testified that her doctor released her to return to work without restrictions on June 2, 2008. The claimant, however, has not offered to return to work for the employer. She, therefore, is disqualified from receiving benefits until: (1) she has been paid wages equal to ten times her weekly benefit amount or (2) she reapplies for benefits and shows: (a) she has presented a medical statement to her employer that she is released to return to work and (b) has offered to return to work but no suitable work is available.

The next issue is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The preponderance of the evidence establishes she is able to and available for work.

**DECISION:**

The unemployment insurance decision dated July 24, 2008, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid

wages equal to ten times her weekly benefit amount or she reapplies for benefits and shows she has offered to return to work for the employer but no suitable work was available. She is able to and available for work.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs