

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**WANDA I RODRIGUEZ**  
Claimant

**APPEAL 17A-UI-10896-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WINNEBAGO INDUSTRIES**  
Employer

**OC: 10/01/17  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(1)d – Voluntary Quitting/Illness or Injury  
Iowa Admin. Code r. 871-24.25(35) – Separation Due to Illness or Injury

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 16, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit working due to a work-related medical condition. The parties were properly notified of the hearing. A telephone hearing was held on November 30, 2017. The claimant, Wanda Rodriguez, participated, and witness Kiria Bautista also testified. Claimant participated in the hearing with the assistance of Spanish/English interpreters Sandy (ID number 9407) and Claudio (ID number 347) from CTS Language Link. The employer, Winnebago Industries, participated through Susan Gardner, Human Resources Supervisor; Bob Rogstad, Production Supervisor; and Colleen Bagley, Worker's Comp Administrator. Claimant's Exhibits A through G were received and admitted into the record without objection.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as an assembler, from August 8, 2016, until September 22, 2017, when she resigned. In May, claimant reported pain in her wrists that was identified as tendonitis and carpal tunnel. (Exhibit B) Claimant saw a physician on May 24, 2017, and received pain relievers and a wrist split, as well as additional patient education. (Exhibit A) In August, claimant had surgery to repair the ailment in her left wrist. Claimant returned to work on September 13, 2017. At the time, claimant presented an Estimated Functional Capacity for Work Tolerance. (Exhibit C) This document states claimant cannot lift more than 21 pounds or push or pull with her left hand. Additionally, claimant could not lift between 11 and 20 pounds more than occasionally, and she could not handle or grip more than occasionally.

When claimant returned to work on September 13, claimant was assigned to an area assembling USBs. Claimant had to do some pushing and lifting that she believes fell outside her restrictions. Claimant did not tell anyone that day that the jobs she was assigned to perform were not permitted by her doctor. At the end of the day, claimant told Rogstad that her wrist was hurting and stated she had been following her restrictions. Claimant did not return to work after that day, because she was in pain and believed she was not able to work. Claimant went to the emergency room on September 16, and she reported wrist pain at that time. (Exhibit D) Claimant was told to continue taking the pain reliever she had been prescribed on an as-needed basis. At some point during her absence, claimant spoke with Bagley about her extended absence. Bagley told claimant that she if she did not have any documentation to excuse her from work, that would count toward her available personal time. Claimant believes that she would have been disciplined if she returned from work, due to her absence. Claimant returned to the doctor who performed her surgery on September 21, 2017. This doctor issued her an Estimated Functional Capacity for Work Tolerance identical to the one she received on September 12, 2017. Claimant testified that the doctor did not examine her or assess her condition or progress on September 21, but there is no indication she shared that information with her employer at the time. Claimant submitted her resignation the following day.

Claimant also claims that she quit her employment because of harassment. Claimant described an altercation she had with white coworkers who said they were white, "f\*\*\*ing racist," and did not care. These coworkers would find garbage left out by one of claimant's coworkers and blame it on her. Another coworker dropped a bag of tools on claimant's hand. Gardner recalled claimant reporting an incident on July 27, 2017. Claimant believed another coworker was being racist when he scratched her name off a battery charger. These chargers were not assigned to one particular employee. When her supervisor asked how this was racist, claimant replied, "It just is." Claimant did not make any other complaints about harassment during her employment.

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

For the reasons that follow, the administrative law judge concludes claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld.

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.

Iowa Admin. Code r. 871-24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Here, claimant alleges she quit her employment in part due to a work-related injury. Claimant has established that her injury was work-related and she informed the employer of the issue generally. However, claimant never told the employer that she was going to quit her employment if she did not receive additional accommodations. Further, it is unclear what additional accommodation claimant required, as the doctor did not order any new restrictions after her visit on September 21. Claimant has not shown that she quit her employment due to a work-related injury.

Iowa Code §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.

Iowa Admin. Code r. 871-24.25 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:

(6) The claimant left as a result of an inability to work with other employees.

...

(21) The claimant left because of dissatisfaction with the work environment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). While claimant alleged comments that could amount to actionable harassment, the administrative law judge does not believe that these comments were the reason she quit her job. Rather, the incident directly triggering claimant resigning was her attempt to return from surgery and the issues she experienced. Here, the average person in claimant's situation would not have felt similarly compelled to quit her employment under these circumstances. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant submitted a resignation letter to her employer and she quit her employment. Claimant's decision to quit was without good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The October 16, 2017 (reference 01) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Elizabeth A. Johnson  
Administrative Law Judge

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Decision Dated and Mailed

lj/rvs