FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Tami Howell was employed by Metrogroup Corporation as a full-time machine operator from September 3, 2001 until October 6, 2005, when she voluntarily quit.

On October 6, Ms. Howell notified Human Resources employee Tammi Shaw that she was quitting due to pain in her shoulders that prevented her from performing her job duties. Ms. Howell had suffered a broken thumb in April 2005 and was off work for seven weeks in connection with that work-related injury. On June 17, Ms. Howell was released to her full duties without restrictions. Ms. Howell had begun to experience pain in her shoulders, but received no evaluation or treatment for this before or during the above leave. Ms. Howell subsequently advised the employer's human resources department of her continuing shoulder pain, and the employer made arrangements for Ms. Howell to be evaluated. The employer also placed Ms. Howell on light-duty. The doctor ordered magnetic resonance imaging of the shoulders. The MRI indicated that Ms. Howell's shoulders were inflamed, but that there was no shoulder tear. The doctor prescribed anti-inflammatory medication and released Ms. Howell to her full duties on September 9, 2005. The doctor did advise Ms. Howell that given her age and health she would probably not be able to perform her current duties at Metrogroup for another 30 years. The doctor did not advise Ms. Howell that she needed to immediately leave the employment. On September 16, Ms. Howell asked the employer's human resources department to arrange for a second evaluation with a different doctor and filled out appropriate paperwork. Up until Ms. Howell quit, the employer, including Ms. Howell's immediate supervisor, had provided Ms. Howell with the work accommodations she requested. These accommodations included, but were not limited to, assigning Ms. Howell to operate machinery that would not aggravate her shoulder condition. Ms. Howell requested no accommodations after her return to full duty on September 9. Ms. Howell did not advise the employer that she would quit unless additional accommodations were made.

During the above employment, Ms. Howell maintained other part-time employment at a convenience store, where she cooked and operated the cash register.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the evidence in the record establishes that Ms. Howell's voluntary quit was for good cause attributable to the employer. It does not.

Iowa Code section 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.

871 IAC 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 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.

Before quitting employment due to a work-related health problem, an employee must give the employer notice of the work-related health problems. The employee must also advise the employer that the employee intends to quit unless those problems are corrected or the employee is otherwise reasonably accommodated. Absent such notice, an employee is deemed to have voluntarily quit without good cause attributable to the employer and is not eligible for unemployment compensation benefits. See Suluki v. Employment Appeal Board, 503 N.W. 2d 402, 405 (Iowa 1993).

The evidence in the record indicates Ms. Howell's shoulder condition was work-related. The evidence indicates that Ms. Howell failed to ask the employer for accommodations after she returned to work on September 9, 2005. The evidence also indicates that Ms. Howell failed to advise the employer that should would quit the employment unless accommodations were provided.

Based on the evidence in the record and the law cited above, the administrative law judge concludes that Ms. Howell's voluntary quit was without good cause attributable to the employer. Accordingly, Ms. Howell is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The employer's account shall not be charged.

Iowa Code section 96.4-3 provides:

> An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:
>
> 3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The evidence in the record establishes that Ms. Howell is able to work and available for work.

DECISION:

The Agency representative's October 21, 2005, reference 03, decision is affirmed. The claimant's voluntary quit was without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The employer's account shall not be charged for benefits. The claimant has been able and available for work since establishing her claim.

jt/kjw