IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

BELINDA K KOPASKA
Claimant

APPEAL NO. 07A-UI-00457-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

**OC: 12/10/06   R: 02
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated January 3, 2007, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 15, 2007. Claimant participated and was represented by Jim Hamilton, Paralegal. Employer participated by David Williams, Talx, Hearing Representative, Jamie Stephens, Store Director, Jim Teepe, Manager General Merchandise and Trish McElderry, Risk Management Specialist. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on November 27, 2006. Claimant quit work pursuant to an agreement with the employer's workers' compensation department. Claimant incurred a work-related injury with employer. The employer would not settle the workers' compensation case without claimant terminating her employment. Claimant opted to settle and give up her employment rights rather than go to court.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of a work-related injury. Employer did not want claimant to return to work as evidenced by the settlement terms. The whole problem was precipitated by a work-related injury. As such, employer pushed claimant out of her job due to a work-related injury. This is cause attributable to employer for the separation. Benefits allowed.

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.

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 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.

DECISION:

The decision of the representative dated January 3, 2007, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

_____
Marlon Mormann
Administrative Law Judge

_____
Decision Dated and Mailed

mdm/pjs