

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**AMY L COOLEY**  
Claimant

**WHIRLPOOL CORPORATION**  
Employer

**APPEAL 15A-UI-11200-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/06/15**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

Amy Cooley (claimant) filed an appeal from the September 29, 2015, (reference 03) unemployment insurance decision that denied benefits based upon the determination she quit work due to a work-related medical condition but failed to leave upon the advice of a medical professional, inform Whirlpool Corporation (employer) of the continued problem or intention to quit, or refused an offer of accommodations or comparable work. The parties were properly notified about the hearing. A telephone hearing was held on October 21, 2015. The claimant participated on her own behalf. The employer did not participate.

**ISSUES:**

Did the claimant voluntarily quit the employment with good cause attributable to the employer?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time in Assembly beginning January 5, 2015, and was separated from employment on September 9, 2015, when she quit. The claimant had a work-related injury to her back and was seeing the employer's doctor for her care. Her most recent restrictions were issued at the end of August 2015 and included a five-pound lifting restriction and no stretching or pulling.

On September 9, 2015, her team leader assigned her work on vent assembly which required her to maneuver and lift a 20-pound part. The claimant told her team leader that was outside her restrictions and she could not do the job. The claimant then quit her employment.

The claimant is not currently under a doctor's care for her injury. She may have continuing restrictions. However, she is qualified and physically able to perform jobs in telemarketing and other clerical or sales type positions.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed.

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. 871-24.26(4) 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:

(4) The claimant left due to intolerable or detrimental working conditions.

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court recently concluded that, because the intent-to-quit requirement was added to rule 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

The claimant was placed on work restrictions by the employer's doctor. The claimant credibly testified that she was ordered to violate those restrictions in the performance of her job duties. This created an intolerable and detrimental work environment for the claimant that gave rise to a good-cause reason for leaving the employment. Benefits are allowed.

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work.

Iowa Code § 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".

Iowa Admin. Code r. 871-24.22(1)a and (2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. The claimant credibly testified she is able to and available to perform work, even if it is different in nature than the work she performed for the employer. Accordingly, benefits are allowed.

**DECISION:**

The September 29, 2015, (reference 03) unemployment insurance decision is reversed. The claimant voluntarily left the employment with good cause attributable to the employer. She is also able to work and available for work. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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