

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRYSTAL L ESTRADA
Claimant

APPEAL NO: 13A-UI-12516-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PIONEER HI-BRED INTERNATIONAL INC
Employer

OC: 03/31/13
Claimant: Appellant (4/R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Crystal L. Estrada (claimant) appealed a representative's October 29, 2013 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Pioneer Hi-Bred International, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 3, 2013. The claimant participated in the hearing. The employer's representative received the hearing notice and responded by sending a statement to the Appeals Section indicating that the employer was not going to participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Modified. Benefits allowed after October 26, 2013 if otherwise eligible.

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on or about September 7, 2013. She worked full time as a sorter in the employer's Durant, Iowa corn seed sorting facility. Her last day of work was September 26, 2013. She voluntarily quit work as of that date.

The job was seasonal, and work was to and did continue through on or about October 25, 2013. The claimant did not complete the work season because she was pregnant and developed complications; as of about September 26 her doctor ordered her to stop working until sometime after the delivery. As a result, the claimant informed the employer on September 26 that she was not going to be returning for the remainder of the work season. The claimant gave birth on October 23, 2013.

There has not been a determination as to at what point after the claimant gave birth she may have been released by her doctor as able to return to some work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

871 IAC 24.25 provides that, 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 claimant did express her intent not to return to work with the employer for the remainder of the work season. A voluntary leaving of employment requires an intention to terminate the employment relationship. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993). The claimant did exhibit the intent to quit and did act to carry it out. The claimant ordinarily would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

Where the quit is for medical or health reasons, the quit is disqualifying at least until the claimant has recovered and seeks to return to work unless the medical or health issue is attributable to the employer. Iowa Code § 96.5-1; 871 IAC 24.25(35); 871 IAC 24.26(6)b. Where a claimant has been compelled to leave employment upon the advice of her physician due to a medical or health issue not caused or aggravated by the work environment, the claimant is not eligible to receive unemployment insurance benefits until or unless the claimant then recovers, is released to return to work by her physician, and in fact does attempt to return to work with the employer. 871 IAC 24.25(35). A “recovery” under Iowa Code § 96.5-1-d means a complete recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985). The claimant was not released to return to full work duties by the end of the scheduled work season.

871 IAC 24.25(40) provides:

(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

The claimant has not satisfied her burden of proving that the voluntary quit prior to October 25, 2013 was for a good cause that would not disqualify her. Iowa Code § 96.6-2. However, the claimant’s quit was prior to a scheduled layoff due to the end of the work season. Under the rule, the claimant would only be disqualified for benefits until the effective date of layoff. Benefits are allowed after October 26, 2013, if the claimant is otherwise eligible.

An issue as to at what point after October 26 the claimant may have been released by her doctor so as to be able and available for work arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The representative’s October 29, 2013 decision (reference 04) is modified in favor of the claimant. The claimant voluntarily left her employment without good cause attributable to the employer on September 26, 2013 prior to the seasonal layoff on October 25, 2013. She would be ineligible for benefits until the effective date of the layoff. Benefits are allowed after

October 26, 2013, provided the claimant is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the able and available issue.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css