IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

WANDA M OLSON
Claimant

US POSTAL SERVICE
Employer

APPEAL NO. 13A-UI-11922-JT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 09/22/13
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Wanda Olson filed a timely appeal from the October 16, 2013, reference 03, decision that denied benefits. After due notice was issued, an in-person hearing was held on December 3, 2013. Ms. Olson participated. The employer did not appear for the hearing and did not participate. At the claimant's request, the administrative law judge took official notice of the administrative documented submitted for and generated in connection with the fact-finding interview. The administrative law judge took office notice of the Agency's administrative record (DBRO and KCCO) that documented the effective date of the claim, the weeks for which the claimant has claimed benefits, the wages reported by the claimant, and the job search activity reported by the claimant. Exhibits A, B and C were received into evidence.

ISSUE:

Whether Ms. Olson's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Wanda Olson was employed by the United States Postal Service as a full-time city carrier from August 25, 2013 until September 19, 2013, when she voluntarily quit the employment due to issues with her knees. Ms. Olson was still in training at that time she quit. Ms. Olson's duties were to include driving and substantial walking to deliver mail. Ms. Olson's assigned route was to involve both deliver to community mail boxes and delivery house to house. Ms. Olson found the work hard on her knees and experienced pain in her knees as she walked the route with her trainer.

On September 15, 2013, Ms. Olson sought medical evaluation of her knee concerns at Mercy West Emergency Care. A doctor took x-rays, told Ms. Olson her knees were inflamed, and gave Ms. Olson steroids. The doctor told Ms. Olson that once she took the steroids the swelling should go down the next day and that she should be okay at that time. The doctor did not advise Ms. Olson to leave the employment.

On September 18, Ms. Olson made telephone contact with her primary care physician to discuss her knee issues. Ms. Olson told her primary doctor about her knee concerns. The doctor told her that the steroid pills should resolve the issue. The doctor offered to see Ms. Olson that day. Ms. Olson elected instead to schedule an appointment for September 23, 2013.

Ms. Olson had complained to her supervisor about her knee pain and had been told that she was hired to perform the duties of a city carrier, assigned to a particular route, and would have to perform those duties if she wished to remain in the employment. Ms. Olson elected instead to quit the employment. Ms. Olson worked her last day on September 19 and did not report for work thereafter. Ms. Olson did not provide the employer with any medical documentation to support her request for accommodations.

REASONING AND CONCLUSIONS OF LAW:

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.

Workforce Development rule 817 IAC 24.26(6) provides as follows:

> Separation because of illness, injury, or pregnancy.
>
> a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.
>
> 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record indicates that Ms. Olson voluntarily quit due to a non-work-related health issue, pain in her legs. The evidence fails to establish a medical condition that made it necessary to leave the employment to avoid serious harm. Ms. Olson's decision to voluntarily quit the employment was not based on the advice of a doctor. Even if the evidence had established a work-related health issue, Ms. Olson did not present any medical documentation to the employer to support her need for accommodations. Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Olson's voluntary quit was without good cause attributable to the employer. Accordingly, Ms. Olson is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

Having concluded that Ms. Olson is disqualified for benefits based on the voluntary quit, there is no need to further address the able and available issue in this ruling.

DECISION:

The Agency representatives October 16, 2013, reference 03, decision is affirmed. The claimant voluntarily quit the employment 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, provided she is otherwise eligible. The employer's account shall not be charged.

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James E. Timberland
Administrative Law Judge

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Decision Dated and Mailed

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