

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TINA M SHAVERS**  
Claimant

**APPEAL NO. 09A-UI-07933-E2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JEENS, INC  
MCDONALDS**  
Employer

**OC: 04/19/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 14, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 17, 2009. Claimant participated. Employer participated by Alex Walker, Area Supervisor and Jason Keppinger Store Manager. Exhibit A 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 August 25, 2008. The claimant worked part time at a McDonalds in Walnut, Iowa. She sprained her ankle outside of work. Her doctor provided restrictions as of August 12, 2008 of "Light Duty Sitting (sic) as much as possible." If the restrictions could not be met the claimant should not work. Exhibit A. The employer was willing to try to accommodate her and allow her to sit when she needed to, but her job on the crew was not a sitting job. The claimant called her employer and quit.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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)a 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.

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.

The claimant has not established that the injury was work related, as is her burden. Thus, she must meet the requirements of the administrative regulation cited above. She presented evidence in writing to the employer that a physician had placed work restrictions. She could not perform all the duties of her previous employment. Benefits are denied.

**DECISION:**

The May 14, 2009, reference 01, decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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James Elliott  
Administrative Law Judge

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Decision Dated and Mailed

jfe/pjs