

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SHEILA R ELLER
Claimant

AMERICAN PACKAGING CORP
Employer

APPEAL NO. 15A-UI-07764-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 06/07/15
Claimant: Appellant (1)**

Iowa Code § 96.5-1 – Voluntary Quit
871 Iowa Admin. Code § 24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 1, 2015, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on August 11, 2015. Claimant participated, and had witness Jim Eller. Employer participated by Daren Westercamp. Employer's Exhibits One through Twelve and claimant's Exhibit A were admitted into evidence.

ISSUES:

Whether claimant quit for good cause attributable to employer?

Whether claimant is on an approved leave of absence?

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 April 6, 2015. Claimant had a series of medical ailments starting in late 2014 that continued into 2015. Claimant has been on unpaid leave since April 7, 2015.

Claimant has not been able to document that any of her injuries were caused through her work activities. Claimant was released back to work in a confusing series of notes sent from her Physician's Assistant (PA) and doctor in mid-April.

Claimant received notice on July 31, 2015 from CIGNA (insurance carrier for employer) that she had been approved to receive short term disability (STD) payments. The date of claimant's

disability was listed as April 7, 2015. The benefits were to run until at least July 30, 2015. This is listed as claimant's "first check".

Employer has requested that claimant get a doctor's note detailing what claimant can do at work such that they might be able to create a job for claimant. Claimant has not done this to date.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.22(2)(1)(2)(3) provides:

Benefit 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.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

The administrative law judge holds that the evidence has failed to establish that claimant is not still on an approved leave of absence. Without a clarification from claimant's medical provider, employer cannot determine whether work will be available for claimant. There is still ongoing work available for claimant in her previously held position, but it is unknown whether claimant will ever again be able to do that type of work. The administrative law judge still considers this to be a leave of absence because claimant has not provided information necessary for employer to determine what positions claimant can do. Claimant's unwillingness to have contact with employer exacerbates the difficulty of this situation. In the meantime, claimant is receiving disability payments as claimant is disabled.

DECISION:

The decision of the representative dated July 1, 2015, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/mak