

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRANG T DIEM HUYNH
Claimant

APPEAL NO. 10A-UI-13887-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GLOBAL FOODS PROCESSING INC
Employer

OC: 04/18/10
Claimant: Appellant (1)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Trang T. Diem Huynh (claimant) appealed a representative's October 1, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Global Foods Processing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 19, 2010. The claimant participated in the hearing. Delores Guest appeared on the employer's behalf. Lena Hoang served as interpreter. During the hearing, Employer's Exhibits One and Two and Claimant's Exhibits A and B were entered into evidence. Based on the evidence, the arguments of the parties, 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?

FINDINGS OF FACT:

The claimant started working for the employer on June 3, 2010. She worked full-time as a production worker/knuckle trimmer in the employer's pork processing facility. Her last day of work was September 8, 2010.

The claimant had been in a car accident on August 31. As a result, on September 1 she requested and the employer granted a medical leave of absence until after a September 7, 2010 doctor's appointment. The claimant did work on September 8. She came in to work on September 9 and brought with her documentation from her September 7 doctor's appointment. The doctor's medical restrictions required that the claimant not do work requiring use of a knife for an undetermined period of time. The claimant's regular job duties required use of a knife. The employer could not accommodate the claimant's work restrictions, as they did not arise from a work-related incident. Since the claimant was not permitted by her doctor to return to her regular duties, the employer considered the claimant as leaving her position.

The claimant was released by her doctor as able to return to work without any restriction as of October 13. The claimant did not present the release to the employer or seek to return to work with the employer, as she understood she could not seek reemployment with the employer until three months had passed.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit, she would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. 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 the medical or health issue is not attributable to the employer, the employer is not required to provide work that would accommodate restrictions from the claimant's regular job duties.

Where a claimant has been compelled to leave her regular job because of the advice of her physician due to a medical or health issue not attributable to 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 has now been released to return to full work duties, but she has not approached the employer and sought to be returned to work. Accordingly, the separation is without good cause attributable to the employer and benefits must be denied until or unless she does attempt to return to work with the employer.

DECISION:

The representative's October 1, 2010 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of September 9, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw