

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OCTAVIA POWELL
Claimant

APPEAL NO: 11A-UI-16408-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PARCO LTD
Employer

OC: 08/28/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(35) – Non-Job Related Illness

STATEMENT OF THE CASE:

The claimant appealed a department decision dated December 16, 2011, reference 04, that held she voluntarily quit employment without good cause due to a non-work-related illness or injury on August 6, 2011, and benefits are denied. A telephone hearing was held on January 25, 2011. The claimant did not participate. Steve Engler, General Manager, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant worked for the employer as a part-time crew member from November 1, 2010 to August 6, 2011. The claimant notified the employer she would not be able to work due to a non-work-related health issue. The employer put her on medical leave until she could provide a doctor release she was able to return to work. Sometime later claimant picked up her final paycheck stating she felt better. She did not return to the employer with a doctor release she was able to work and request to be put back to work.

The claimant responded with a phone number and witnesses with phone numbers to be called for the hearing. The claimant could not be reached at the number she provided.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 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.

871 IAC 24.25(35) provides:

Voluntary quit without good cause. 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 employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on August 6, 2011 due to a non-job related illness.

The employer held the claimant's job open when she was unable to work due to a non-work-related health issue, but she never came back with a doctor release or with a request to go back to work.

DECISION:

The department decision dated December 16, 2011, reference 04, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on August 6, 2011. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css