

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**LISA A SHATZER**  
Claimant

**APPEAL NO. 19A-UI-03308-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ENGINEERED PLASTIC COMPONENTS INC**  
Employer

**OC: 03/24/19**  
**Claimant: Appellant (1)**

Section 96.5-1-d - Voluntary Quit for Medical Reasons  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Lisa Shatzer (claimant) appealed a representative's April 17, 2019, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Engineered Plastic Components (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 9, 2019. The claimant participated personally. The employer participated by Angela Janecek, Human Resources Manager. The claimant offered and Exhibit A was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason and whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 23, 2011, as a full-time assembler operator working Monday through Friday. The claimant was diagnosed with a medical condition and scheduled for surgery on March 26, 2019. The condition was not work related. She requested and was granted Family Medical Leave (FMLA) beginning March 25, 2019.

The claimant's physician restricted her from working from March 26 to May 3, 2019. On May 3, 2019, her physician allowed her to return to work four-hour light duty shifts, Monday through Friday, with no heavy lifting. The claimant provided the note to her employer on May 3, 2019. The employer had no light duty work available for the claimant. It considers the claimant to be an employee on medical leave. The claimant is often sick while she undergoes postoperative chemotherapy treatments.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1)d provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. *Area Residential Care, Inc. v. Iowa Department of Job Service*, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code Section 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 left work due to a medical condition under the advice of her physician. The employer consented to her leaving. The claimant has not provided the employer with certification that she has recovered. The claimant has not met the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits. The claimant may requalify by returning to the employer with an unconditional release. The claimant could then receive benefits if regular work or comparable suitable work was not available.

The next issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes she is not.

Iowa Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

When an employee requests and is granted a leave of absence, she is considered to be voluntarily unemployed. The claimant requested a medical leave of absence and the employer

granted her request. The request was initiated by the claimant. She is considered to be voluntarily unemployed during the period of the medical leave of absence. The claimant is not eligible to receive unemployment insurance benefits, because she is not able and available for work.

**DECISION:**

The representative's April 17, 2019, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible. She is disqualified from receiving unemployment insurance benefits because she is not able and available for work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs