

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYL J NEWTON
Claimant

APPEAL NO. 10A-UI-16544-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FACTORY CARD OUTLET OF AM LTD
Employer

**OC: 10/31/10
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 23, 2010, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on January 20, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Kevin McDonald. Crystal Freitag participated in the hearing on behalf of the employer. Exhibit A was admitted into evidence at the hearing.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked as an assistant manager for the employer from August 2005 through August 12, 2010. The claimant's job duties included climbing ladders to get and put away merchandise, unloading freight, and standing for extended periods of time.

The claimant suffers from arthritis in her knee, which was a condition which was not attributable to her employment. She requested and was granted a medical leave of absence because she had surgery on her knee on August 13 and needed time to recuperate from her surgery. She also applied for short-term disability during her medical leave.

The claimant saw her doctor on September 9, 2010. Her doctor imposed restrictions on her climbing on ladders, extended standing, squatting, and kneeling. When she submitted the restrictions to her supervisor, the claimant was told that she could not return to work until she was able to perform all her job duties, including climbing ladders and putting away freight.

The claimant submitted her voluntary resignation on September 11, 2010. She quit because she was not able to perform all the duties expected of her and because she had not yet received any short-term disability benefits. The claimant ended up receiving short-term disability on September 13 and she received them through September 15, which she established as the effective date of her resignation.

The claimant has not been fully released by her doctor without restrictions and has not offered to return to work for the employer.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant voluntarily quit employment because she was not able to perform all the duties of her job as assistant manager due to a non-work-related medical condition. This is a cause that was not attributable to the employer.

The unemployment insurance law provides that individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d.

The claimant has not satisfied the conditions of Iowa Code § 96.5-1-d. She voluntarily quit and has never provided certification of a full recovery from her medical condition or offered to return to work. The claimant has not shown that the delay in her receiving short-term disability was caused by the employer. Therefore, the claimant voluntarily quit work without good cause.

DECISION:

The unemployment insurance decision dated November 23, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible, or satisfies all the conditions of Iowa Code § 96.5-1-d, as explained above.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css