

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KAYLA M LEWIS
Claimant

APPEAL NO. 12A-UI-11800-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VAN BUREN COMMUNITY SCHOOL DIST
Employer

OC: 09/02/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 27, 2012, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 29, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Robyn Nolting participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full time for the employer as a cook from August 2006 to May 24, 2012. She stopped working on May 24, 2012, due to the end of the school year. The claimant had reasonable assurance from the employer of employment for the 2012-2013 school year. The claimant's job requires lifting of 45 pounds, including lifting of pots and pans of hot food.

The claimant suffers from several medical conditions, including tremors, arthritis, and disc problems with her neck. On July 26, 2012, the claimant's treating neurologist recommended that the claimant not return to work due to concerns about her dropping something due to her medical problems.

On July 29, 2012, the claimant informed the employer that she was resigning from her cook job effective August 2, 2012. She submitted the letter she got from her doctor advising her not to return to work.

The claimant filed a new claim for unemployment insurance benefits effective September 2, 2012. Since filing for unemployment insurance benefits, she has applied for jobs, including as a hardware store clerk, convenience store clerk, and restaurant worker, but she does not believe she is currently able to work due to her medical problems.

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.

There are two provisions of the law that grant benefits to a person who has quit due to medical reasons.

First, 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 is not qualified under Iowa Code § 96.5-1-d because she had not recovered from her medical problems and offered to return to work.

Second, the unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b. The claimant is also not qualified under 871 IAC 24.26(6)b. While there is evidence that the claimant's work aggravated her medical problems, she quit without requesting any accommodation for her condition.

The final issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The unemployment insurance rules provide that a person must be physically able to work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b. The evidence fails to show the claimant is currently able to work full time.

DECISION:

The unemployment insurance decision dated September 27, 2012, 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, or she offers to return to work after a licensed and practicing physician certifies her recovery, but no work is available for her.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css