

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MOLLY J COLEMAN
Claimant

PREMIER STAFFING INC
Employer

APPEAL 15A-UI-00997-H2T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/09/14
Claimant: Appellant (1)

Iowa Code § 96.5(1)d – Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 15, 2015, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 17, 2015. Claimant participated. Employer participated through Amy Reisner, Account Manager.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was last assigned to work at CCD Packaging full-time as a handler beginning in March 2014 through October 23, 2014 when she voluntarily quit her assignment. The claimant found out she had cancer and called the employer on October 29 and told them she needed to be off work. She told the employer she would get back to them when she was physically able to return to work. The employer is a temporary agency and did not promise the claimant that work would be available for her when she physically felt she was able to return to work. The claimant contacted the employer again in mid-December and they do not have any work for her. The claimant voluntarily quit her assignment due to a personal non-work related health issue. If work becomes available the employer will place the claimant at an assignment again.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

Iowa Code § 96.5-1-d 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. 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.

The claimant voluntarily quit working at her assignment due to a personal health issue. It is just not credible that an employer who is a temporary agency would promise any employee that they could return to work whenever they so choose. The employer would have to have open work assignments where the claimant could be placed to work. The employer did not guarantee the claimant that work would be available for her if she should chose to return. Under these circumstances the claimant voluntarily left her employment for good personal reasons, but without good reason attributable to the employer. Benefits must be denied.

DECISION:

The January 15, 2015 (reference 02) decision is affirmed. The claimant's separation was not attributable to the employer. Benefits are withheld until such time as the claimant works in and has been paid for wages equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs