

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SAMANTHA L HENDRICKS
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CUSTOM PAK
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DEWITT IA 52742

Appeal Number: 05A-UI-06873-DWT
OC: 06/12/05 R: 04
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Samantha L. Hendricks (claimant) appealed a representative's June 27, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits because she voluntarily quit her employment at Custom-Pak (employer) for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 20, 2005. The claimant participated in the hearing. Vicky Rixen, the human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on May 16, 2005. The employer hired the claimant to work as a full-time operator. The employer knows some employees cannot physically handle the work and places new employees on probation for 60 days. The employer considers this a training and probation period. At orientation, the employer informs employees about exercises they should do so their arms and hands do not hurt.

New employees must learn all aspects of the job. Part of the claimant's initial job duties included ripping out hard plastic with her hands and then using a blowtorch. This is highly repetitive work. These jobs physically bothered the claimant. After the first three days of work, the claimant's hands started hurting. Her co-workers suggested that she do the exercises the employer gave her at orientation and to take Ibuprofen. Even though the claimant followed these suggestions, she continued to experience problems with her arms and hands.

The last week of her employment, the claimant could not feel anything from her elbows to her hands. During this last week of her employment, the claimant went to her chiropractor. The claimant also reported her condition to her supervisor. The employer temporarily assigned the claimant a lighter job. The claimant knew she could not work at this light-duty task forever because she had to learn all parts of the job.

On June 8, 2005, the claimant called in sick because her arms bothered her so much she could not work. The claimant did not work on June 9. The claimant saw her chiropractor on June 9. The chiropractor diagnosed that the claimant had a pinched nerve in her neck and shoulders. The chiropractor also told the claimant that it would be in her best interests to find other employment. On June 10, the claimant informed the employer she was quitting because she had never done work like this before and her arms and hands bothered her too much.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit her employment. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2.

The law presumes a claimant involuntarily quits a job when the job causes or aggravates an injury to the extent it is impossible for the employee to continue working at this job. 871 IAC 24.26(6)(b). The facts indicate the claimant did not have any problems prior to working for the employer. The employer recognizes that some people are physically incapable of doing the required job duties. Even though the claimant tried, she was one of these people who could not physically do the required work without suffering medical consequences. The claimant's chiropractor told the claimant that it would be in her best interests to find other employment, which is the same as telling the claimant to quit this job. The claimant satisfied the requirements of 871 IAC 24.26(6)(b). Therefore, as of June 12, 2005, the claimant is qualified to receive unemployment insurance benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's June 27, 2005 decision (reference 01) is reversed. The claimant involuntarily quit her employment for medical reasons. Therefore, the claimant is qualified to receive unemployment insurance benefits as of June 12, 2005, provided she meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

dlw/sc