

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MARIE A GLADSON**  
Claimant

**APPEAL 21A-UI-17690-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 06/06/21  
Claimant: Appellant (3)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the August 12, 2021 (reference 01) unemployment insurance decision that denied benefits to the claimant based upon a voluntarily quitting work. The parties were properly notified of the hearing. A telephone hearing was held on October 4, 2021. The claimant participated personally. The employer participated through witness Margaret Babinat. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. The hearing was consolidated with Appeal No. 21A-UI-18298-DB-T.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as an assistant store manager beginning on October 23, 2008. She tendered a verbal resignation to Ms. Babinat. The last day she physically worked on the job was May 15, 2021. She gave approximately, a two-week notice prior to quitting. There was continuing work available to the claimant if she had not quit.

Claimant has a bulging disc causing her to be unable to work. Her doctor has restricted her from reaching or lifting until she can have surgery in November of 2021. This issue has caused claimant problems for over five years. Claimant contends the injury was work-related. A claim for worker's compensation was filed in February of 2021 and again in August of 2021. The date of injury is unknown. The status of the worker's compensation claim is unknown. Claimant is unable to work at this time due to the bulging disc. Claimant told Ms. Babinat that she was quitting to accept other employment.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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.

Claimant had an intention to quit and carried out that intention by verbally notifying Ms. Babinat that she was quitting. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

In this case, the claimant voluntarily quit her position due to her medical condition, even though she told Ms. Babinat she was quitting to accept other employment. Claimant has not recovered from the medical condition to the point where she could work in this position pursuant to Iowa Code § 96.5(1)d. As such, the claimant's voluntary quitting was not for a good-cause reason attributable to the employer, according to Iowa law and the separation from employment is disqualifying.

The next issue is whether the claimant has been able to and available for work. The administrative law judge finds that the claimant was not able to and available for work effective her original claim date.

Iowa Code § 96.4(3) provides:

Required Findings.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept

suitable work of section 96.5, subsection 3, are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Iowa Admin. Code r. 871-24.23(3) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

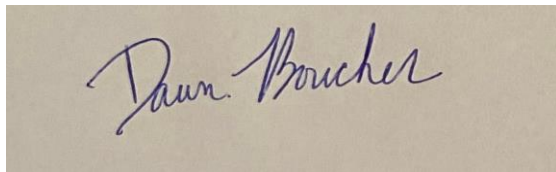
(3) If an individual places restrictions on employability as to the wages and type of work that is acceptable and when considering the length of unemployment, such individual has no reasonable expectancy of securing work, such individual will be deemed not to have met the availability requirements of Iowa Code section 96.4(3).

Claimant is unable to work effective June 6, 2021 due to her medical condition. Because the claimant is unable to perform work due to injury, unemployment insurance benefits funded by the State of Iowa are denied effective June 6, 2021 pursuant to Iowa Code § 96.4(3) as well.

**DECISION:**

The August 12, 2021 (reference 01) unemployment insurance decision is modified in favor of the respondent. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits funded by the State of Iowa are denied until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after her May 15, 2021 separation date, and provided she is otherwise eligible.

Unemployment insurance benefits funded by the State of Iowa are also denied effective June 6, 2021 and continuing due to the claimant being unable to work due to injury. Benefits are denied until the claimant establishes that she is able to and available for work.



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Dawn Boucher  
Administrative Law Judge

October 5, 2021  
Decision Dated and Mailed

db/mh