

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACQUILINE L SIMS
Claimant

MASTERSON PERSONNEL INC
Employer

APPEAL 18A-UI-09463-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/12/18
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin Code r. 871-24.25 – Voluntary Quit Without Good Cause
Iowa Admin. Code r. 871-24.26 – Voluntary Quit with Good Cause

STATEMENT OF THE CASE:

Jacqueline Sims, Claimant, filed an appeal from the September 10, 2018, (reference 07) unemployment insurance decision that denied benefits because she voluntarily quit work with Masterson Personnel Inc. for personal reasons not caused by her employer. The parties were properly notified of the hearing. A telephone hearing was held on September 28, 2018 at 11:00 a.m. Claimant participated. Employer participated through Jim Robertson, Unemployment Operations Manager, and Audrey Schlei, Recruiter. No exhibits were admitted.

ISSUE:

Whether Claimant's separation was a voluntary quit 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 placed by Masterson Personnel Inc. ("Masterson") at Curries, a metal door and frame manufacturer, as a full-time, temporary worker from July 26, 2018 until her employment ended on August 14, 2018. (Claimant Testimony; Schlei Testimony) When claimant started her placement at Curries, she painted and pushed metal doors. When claimant's placement ended, she was hanging door frames. (Claimant Testimony) Claimant worked Sunday through Friday from 10:00 p.m. until 6:30 a.m. (Claimant Testimony) Claimant reported to a recruiter at Masterson Personnel Inc. or Masterson's representative at Curries, Duane, who worked claimant's shift. (Schlei Testimony)

On July 24, 2018, before beginning her placement with Curries, claimant completed a form with Masterson stating that she had weight restriction of 60 pounds. (Schlei Testimony) Claimant listed her restriction as "personal." (Schlei Testimony) Claimant did not tell Masterson that the weight restriction was at the advice of her physician. (Schlei Testimony) Claimant also completed a Temporary Employee Job Signoff for Curries in which she initialed by statements

regarding job duties she would be expected to complete. (Schlei Testimony) Claimant initialed by the following statements: "I understand that I will be required to lift up to 50 pounds repetitively in the frames department" and "I understand that I will be required to lift up to 75 pounds repetitively by myself and 140 pounds with a partner in the doors department." (Schlei Testimony) Claimant also signed the form. (Schlei Testimony)

Claimant has a physician's statement dated September 7, 2018 stating that claimant is restricted to lifting less than 60 pounds effective May 23, 2018. (Claimant Testimony) Claimant did not provide Masterson with a copy of her physician's statement. (Claimant Testimony) Claimant's lifting restriction is due to a non-work-related illness or injury for which she had surgery in May 2018. (Claimant Testimony) Claimant still has a lifting restriction of 60 pounds. (Claimant Testimony) There is no job at Curries that claimant is able to perform. (Claimant Testimony) There was continuing work available at Curries or other placements with Masterson. (Schlei Testimony)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

Pursuant to Iowa Code section 96.5(1)(d), an individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer.

Iowa Admin. Code r. 871-24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

- (35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:
- a. obtain the advice of a licensed and practicing physician;
 - b. Obtain certification of release of work from a licensed and practicing physician;
 - c. Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
 - d. fully recover so that the claimant could perform all of the duties of the job.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer. Iowa Code § 96.6(2).

Claimant intended to terminate her employment evidenced by her resignation. Claimant left her employment due to her non-work-related injury or illness. While claimant obtained the advice of a physician, she did not share that information with employer. Furthermore, claimant has not fully recovered from her injury or illness and still has a weight restriction, which makes her unable to perform her job duties. Claimant voluntarily quit her employment without good cause attributable to the employer. Claimant is ineligible for benefits.

DECISION:

The September 10, 2018, (reference 07) unemployment insurance decision is affirmed. Benefits are denied until such time as the claimant works in and has been paid wages for insured work equal to ten times claimant's weekly benefit amount.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/rvs