

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

YOLONDA J SMITH
Claimant

AMERICOLD LOGISTICS LLC
Employer

APPEAL 17R-UI-08886-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/04/17
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 26, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 21, 2017. Claimant participated. Rondell Randolph registered for the hearing on claimant's behalf, but claimant elected not to have him contacted. Employer did not participate. Bill Shivers and Nicole Ludwig registered for the hearing on behalf of the employer, but they were unavailable when contacted at the numbers provided and they did not participate. The administrative law judge (ALJ) received an error message ("Call to Jacqueline Jones failed: Call did not reach destination (code 18)") when hearing representative Jacqueline Jones was initially called. Ms. Jones was called again and did attend the hearing for a brief period of time on the employer's behalf, but then elected to disconnect from the hearing. Claimant Exhibit A was admitted into evidence with no objection.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a forklift driver from February 6, 2017, and was separated from employment on May 30, 2017, when she quit.

In April 2017, claimant tripped over a dock plate and fell into a trailer. Claimant sprained both of her ankles and cut her knee. Claimant reported the injury to the employer and requested to go see a doctor. The employer told claimant it needed her to stay and continue working.

On May 8, 2017, claimant fell again and sprained both of her ankles. Claimant reported her injury to the employer. The employer refused to let claimant see a doctor or fill out an incident report. The employer told claimant to work through it. On May 13, 2017, claimant went to a

doctor regarding her injury. Claimant's doctor placed her off work for two days (May 15 and 16, 2017). On May 15, 2017, claimant provided Mr. Shivers her doctor's note placing her off work. Claimant testified Mr. Shivers told her that she was getting him in trouble. The employer had claimant fill out an incident report and she was sent to see the employer's doctor. The employer's doctor placed claimant on work restrictions (no lifting over ten pounds, no stooping, no crouching, no kneeling, no crawling, and allow frequent positional changes). Claimant provided her work restrictions to the employer. Shortly after claimant was placed on work restrictions, Mr. Shivers was out of the office on vacation. The employer refused to comply with claimant's work restrictions. Claimant's supervisor continually assigned claimant job duties that did not comply with the work restrictions. Claimant would report to Ms. Ludwig that her supervisor was assigning her job duties that did not comply with her work restrictions. Claimant testified that Ms. Ludwig told claimant there is nothing she could do. Claimant would then perform the work that was assigned to her even though it violated her work restrictions.

On May 29, 2017, claimant reported to Ms. Ludwig that her supervisor again assigned her job duties that violated her work restrictions. Claimant testified Ms. Ludwig told claimant there was nothing she could do. Claimant told Ms. Ludwig she was hurting herself by performing these job duties that violated her work restrictions. Claimant told Ms. Ludwig she was going to have to quit. Claimant testified Ms. Ludwig told claimant she had spoken to Mr. Shivers, but she could not go above his head. Claimant told Ms. Ludwig she quit. Claimant quit effective May 29, 2017. Mr. Shivers was still out of the office when claimant quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed.

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer's doctor allowed claimant to return to work under certain work restrictions. Although claimant provided the employer with her work restrictions, she testified her supervisor continually assigned her job duties that violated her work restrictions. Claimant would report this to the employer, but the situation did not improve and her supervisor continually assigner her duties that violated her work restrictions. On May 29, 2017, claimant's supervisor again assigned her job duties that violated her work restrictions and the employer told claimant there was nothing they could do. The employer's failure to accommodate claimant's known work restrictions by continually assigning job duties

that violated these work restrictions created an intolerable work environment for claimant that gave rise to a good cause reason for leaving the employment. Benefits are allowed.

DECISION:

The June 26, 2017, (reference 01) unemployment insurance decision is reversed. Claimant voluntarily left the employment with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs