

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

SANDRA L CLARK
Claimant

APPEAL NO. 07A-UI-06411-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF CEDAR RAPIDS
Employer

**OC: 09/10/06 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit Section
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Sandra Clark (claimant) appealed a representative's June 19, 2007 decision (reference 05) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Manpower (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 16, 2007. The claimant participated personally. The employer participated by Debbie Chamberlain, Risk Control Manager.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer and whether the claimant is available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on September 27, 2006, as a temporary worker. She was assigned to work at Harper Brush on February 28, 2007, as a full-time temporary laborer in the shipping and receiving department. The claimant had issues with her hands swelling while she was working. She did not tell her employer about the problem.

On or about April 2, 2007, the claimant told the employer she was quitting to move to Ottumwa, Iowa, and had no transportation to continue working. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code section 96.5-1 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.

871 IAC 24.26(6)b 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:

(6) Separation because of illness, injury or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

An individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993). An employee who receives a reasonable expectation of assistance from the employer after complaining about working conditions must complain further if conditions persist in order to preserve eligibility for benefits. *Polley v. Gopher Bearing Company*, 478 N.W.2d 775 (Minn. App. 1991).

Inasmuch as the claimant did not give the employer an opportunity to resolve her complaints prior to leaving employment, the separation was without good cause attributable to the employer. Benefits are denied.

The next issue is whether the claimant was able and available for work. For the following reasons, the administrative law judge concludes she is not.

871 IAC 24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7).

The claimant's means of transportation was lost because she is no longer working for the employer. When a claimant's has no means of transportation to employment, the claimant is deemed to not be available for work. The claimant is disqualified from receiving unemployment insurance benefits, because she is not available for work with another employer.

DECISION:

The representative's June 19, 2007 decision (reference 05) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. In addition, the claimant is not able and available to work due to her lack of transportation.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw