

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**EVA J FISHEL**  
Claimant

**PELLA CORPORATION**  
Employer

**APPEAL NO. 21A-UI-16643-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/23/21**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant, Eva Fishel, filed a timely appeal from the July 26, 2021, reference 01, decision that disqualified the claimant for benefits and that held the employer's account would not be charged, based on the deputy's conclusion that the claimant voluntarily quit on May 10, 2021 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 21, 2021. Claimant participated. The employer did not provide a telephone number for the hearing and did not participate. There were two appeal numbers set for a consolidated hearing: 21A-UI-16643-JT-T and 21A-UI-16644-JT-T. Exhibit A was received evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO and WAGE-A.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed by Pella Corporation as a full-time laborer from 2018 until May 10, 2021, when she voluntarily quit for health reasons. The claimant's usual work hours were 3:00 p.m. to 1:00 a.m., Monday through Saturday. The claimant performed different tasks at different points in the employment and most recently worked as a wood processor. In that assignment, the claimant used a saw to cut wood parts for windows to replace defective pieces.

The claimant had multiple health issues that factored in her decision to leave the employment. The claimant has bilateral carpal tunnel syndrome. The claimant had surgery on her right wrist in March 2020, but has continued to experience problems with both wrists up to the present. The claimant wore wrist braces as she performed her work duties. At the time the claimant separated from the employment, she was also experiencing problems with blood flow in her legs, venous insufficiency, wherein her body struggled to pump blood upward in her legs. The claimant is in her sixties. The work required that the claimant stand throughout her 10-hour shift. At the time the claimant elected to leave the employment, she was dealing with a swollen foot that made it difficult for her to put her shoe on. The claimant's doctor prescribed a diuretic,

but this did not resolve the issue. The claimant did not request that the employer accommodate her health issues prior to leaving the employment. The claimant had a negative experience in returning to the employment in 2020 after being off work for five weeks due to her carpal tunnel surgery and came to understand at that time that the employer did not offer light-duty work at the facility where the claimant worked. The claimant notified the employer's human resources staff of her decision to leave the employment. The claimant concluded she could no longer endure the long periods of standing that were part of her job at Pella Corporation. The claimant was concerned that her health issues might lead to a serious workplace accident.

The claimant was in the process of undergoing diagnostic testing pertaining to her health issues at the time she quit the employment. The claimant's doctor referred the claimant to a cardiologist. The claimant underwent a stress test and the claimant performed poorly on the stress test. The claimant had difficulty breathing and claimant's doctor was concerned the claimant was suffering from a pulmonary disease.

The claimant's doctor did not advise the claimant to leave the employment and instead left that decision to the claimant's discretion.

After the claimant quit the employment, she ran out of health insurance and had to indefinitely defer carpal tunnel surgery on her left wrist.

The claimant advises she is involved in ongoing litigation with the employer regarding her health issues.

The claimant has not worked since she left the Pella Corporation employment. The claimant has not discussed with a doctor what work she is able to perform and what work she should avoid. The claimant has looked online for job opportunities, but advises she had to be honest with employers about her multiple health issues and their impact on her ability to perform work. In addition to concluding she is unable to perform work that requires standing for long periods, the claimant has also concluded that she would be unable to perform sedentary work due to the bilateral carpal tunnel issues. The claimant has shifted her focus to potential part-time employment in light of her health issues.

The claimant moved to Texas on July 1, 2021 so that she could be near her daughter and gain the assistance of her daughter. The claimant advises that she struggled after her 2020 carpal tunnel surgery on right wrist because she was residing in Iowa without family to assist with her recovery.

## **REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Administrative Code rule 817-24.26(6) provides as follows:

Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

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 the 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence in the record establishes a voluntary quit without good cause attributable to the employer. The claimant presented substantial testimony, but provided no medical documentation regarding the several health concerns that factored into her decision to leave the employment. Those materials would have been helpful in determining whether one or more of the health conditions was caused by or aggravated by the employment and in determining whether it was medically necessary for the claimant to leave the employment to avoid serious danger to her health. As it stands, the administrative law judge may analyze the voluntary quit for health issues as either work related issue or non-work related and arrive at the same outcome. To the extent the claimant's health issues were work related, the claimant presented insufficient evidence to establish it was medically necessary for her to leave the employment to avoid serious danger to her health. Just as importantly, the claimant did not request accommodations prior to leaving the employment, did not tell the employer she would leave if not accommodated, and did not provide the employer a reasonable opportunity to consider or respond to an accommodations request. To the extent the claimant's health issues were non-

work related, the quit was not based on advice from a licensed and practicing physician, the claimant did not recover from the health conditions that prompted her to leave, and the claimant did not return after recovery to over her services. Under both analyses, the administrative law judge must conclude the voluntary quit was for personal reasons and without good cause attributable to the employer. Accordingly, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

**DECISION:**

The July 26, 2021, reference 01, decision is affirmed. The claimant voluntarily quit the employment on May 10, 2021 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.



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James E. Timberland  
Administrative Law Judge

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November 18, 2021  
Decision Dated and Mailed

jet/kmj

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed for reasons related to COVID-19, may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.