

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PENNY COLLINS
Claimant

APPEAL NO: 16A-UI-04600-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK
& CASINO**
Employer

OC: 04/03/16
Claimant: Appellant (2)

Iowa Code Section 96.5(1)d – Voluntary Leaving/Illness or Injury
871 IAC 24.26(6) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 19, 2016, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 3, 2016. The claimant participated in the hearing. Tracey Casey, Human Resources Generalist and Jim Allpress, Loss and Prevention Manager, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time housekeeper for Prairie Meadows Racetrack and Casino from February 20, 2012 to March 30, 2016. She voluntarily quit her job on the advice of her treating physician.

On March 30, 2016, the claimant provided the employer with a note from her doctor stating she could no longer work as a housekeeper but could work in a position that allowed her to sit most of the day. The claimant suffers from "bilateral foot pain with medial ankle instability" (Claimant's Exhibit A). Her podiatrist's note indicated she was using "bilateral anti-valgus PTD braces" but continued to have pain and "cannot perform her current job duties" (Claimant's Exhibit A).

When the claimant presented the doctor's note to the employer she was offered Family and Medical Leave and short-term disability but she would have been responsible for paying her own health insurance costs and could not afford to do so. It also offered the claimant a part-time job selling brochures but she could not afford to live on part-time wages. The employer also encouraged the claimant to think about it before submitting her resignation and

the claimant agreed but then left the employer a voice mail March 31, 2016, stating she was resigning so the employer processed her separation as a voluntary leaving of employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment for no disqualifying reason.

Iowa Code § 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.

The claimant was notified by her treating physician she needed to leave her employment unless the employer could accommodate her medical condition. The employer was unable to do so and the claimant resigned.

Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of serious danger to health, termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. *Raffety v. IESC*, 76 N.W.2d 787 (Iowa 1956). Where disability is caused or aggravated by the employment, a resultant separation is with good cause attributable to the employer. *Shontz v. IESC*, 248 N.W.2d 88 (Iowa 1976). (Emphasis added). A voluntary quit based on illness is clearly disqualifying except upon the advice of a licensed and practicing physician. *Taylor v. IDJS*, 362 N.W.2d 534 (Iowa 1985).

In this case the claimant's treating physician advised her she needed to quit her job due to her medical condition as she was unable to perform the essential functions of her job. While the employer did not cause the claimant's medical condition, the work itself aggravated her condition to the point she could no longer work in that job. The employer was unable to offer her comparable, full-time, work where she would have been sitting most of the day and consequently the claimant was forced to resign due to her medical condition. Under these circumstances, the administrative law judge must conclude the claimant voluntarily left her employment on the advice of her treating physician. Therefore, benefits must be allowed.

DECISION:

The April 19, 2016, reference 01, decision is reversed. The claimant voluntarily left her employment on the advice of a licensed and practicing physician. Her leaving was attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs