

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI	
LORI J ANDERSON Claimant	APPEAL NO. 18A-UI-02557-S1-T
MANPOWER INTERNATIONAL INC Employer	ADMINISTRATIVE LAW JUDGE DECISION
	OC: 01/28/18 Claimant: Appellant (1)

Section 96.5-1-d - Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Lori Anderson (claimant) appealed a representative's February 20, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Manpower International (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 21, 2018. The claimant participated personally. The employer participated by Gail Gonyaw, Recruiter. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a staffing agency. The claimant worked for the employer from October 19 to October 28, 2017. She was assigned to work at Alpha Gomma as a full-time assembler. She suffered a non-work-related knee injury and blood clots in her lungs. The claimant provided the employer with notes from her doctor excusing her from work from October 29 to November 1, 2017, and November 29 to December 27, 2017.

Her doctor saw her on December 14, 2017, and wrote in an undated note that she could return to work on December 27, 2017. The restrictions were listed as "Light duty for 1 month then regular duty. The claimant provided the note to the employer on December 15, 2017. Alpha Gomma told the employer that the claimant should concentrate on her health. They would hold the claimant's job if possible but she would need to provide them with a full release to return to work. The employer telephoned the claimant and relayed the conversation. The claimant was not feeling well and thought she had been discharged.

The claimant saw her physician on January 12, 2018, but he did not issue her a release to return to work without restrictions. She will see him again on May 18, 2018.

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)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.

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). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. *Area Residential Care, Inc. v. Iowa Department of Job Service*, 323 N.W.2d 257 (Iowa 1982). A "recovery" under Iowa Code Section 96.5-1-d means a complete recovery without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862 (Iowa App. 1985).

The claimant left work due to an injury under the advice of her physician. The employer consented to her leaving. The claimant has failed to provide the employer with certification that she has recovered. In addition the claimant has failed to offer her services to the employer after providing the note. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's February 20, 2018, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs