

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY M OXENREIDER**  
Claimant

**APPEAL NO: 06A-UI-08713-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NEIGHBORHOOD PATROL INC**  
Employer

**OC: 08/24/06 R: 02  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Tammy Oxenreider (claimant) appealed a representative's August 24, 2006 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she had voluntarily quit employment with Neighborhood Patrol (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 14, 2006. The claimant participated personally and through John Ferderer, her fiancé. The employer participated by Dick Rogerson, Director of Human Resources, and Harvey Woody, Security Manager.

**ISSUE:**

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer and, therefore, is not eligible to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 8, 2006, as a full-time security officer. The claimant suffers from anxiety and depression. She sees a physician for her condition and takes medication. The claimant worked at a quiet location until April 2006. The claimant agreed to a move to another location. She worked at the new location on April 21 and 22, 2006. She found the conditions to be too overwhelming and complicated. The claimant properly reported she was ill on April 23, 24, 25, 26 and 27, 2006. When the employer did not hear from the claimant on April 28, 2006, the employer telephoned the claimant. The claimant explained that she did not wish to work at the new location. The employer told the claimant that nothing was available for her at that time but the employer would look for another location to transfer the claimant. The claimant did not appear for work or contact the employer on May 1, 2006, because she quit work. Continued work was available had the claimant not resigned.

## REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer and is not eligible to receive unemployment insurance benefits.

Iowa Code section 96.5-1-d 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. 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).

The claimant left work due to a medical condition but not under the advice of her physician. The claimant did not inform the employer and the employer did not consent to her leaving. 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 August 24, 2006 decision (reference 01) 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.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs