

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LISA M GRIMSTAD
Claimant

APPEAL NO. 14A-UI-09046-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEARS MANUFACTURING CO
Employer

OC: 08/03/14
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 22, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 18, 2014. Claimant participated. Employer participated by Dina Smith and witness Trisha Taylor.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 26, 2014. Employer had received documentation that on June 26 employee was to return to full-duty work after having been placed on light-duty work for a number of months after a workplace injury.

Claimant attempted to work at her regular job on June 26, but had shoulder discomfort. Claimant spoke with employer about this shoulder discomfort and employer suggested that claimant return home that day and see her doctor. Claimant called in to work the next day (a Friday) and stated that she would be back to work the next Monday, June 30. Claimant never called into work and never showed for work again.

Claimant states that she was terminated from work. Employer is a union shop. Claimant never pursued any claim through the union, nor did she attempt to contact employer after June 27. On June 30 when claimant didn't call or show for work, she was seen as a voluntary quit.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Code § 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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of being asked to work her regular job when her injuries had not recovered to an extent that she could perform that job.

Employer's worker's compensation doctor had cleared claimant for full duty on June 26. Claimant attempted to do this work, but was unable. It was incumbent on claimant to further pursue a medical allowance for her to continue in light-duty work. Claimant chose to pursue further medical advice.

Claimant had avenues available to her to keep her job, both through her union and through her ongoing workers' compensation claim. Claimant chose not to pursue any of those options. Claimant's actions can only be seen as a choice to quit her job as there was ongoing light duty work available for her.

DECISION:

The decision of the representative dated August 22, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

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