

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMBER L HOWARD
Claimant

APPEAL NO. 09A-UI-01075-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARCHER-DANIELS-MIDLAND CO
Employer

**OC: 11/23/08 R: 04
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated January 16, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 10, 2009. Claimant participated. Employer participated by Bryce Albrechtsen, Human Resource Manager, and Curt Schnippel, Sugar House Superintendent. Exhibits One and Two were admitted into evidence.

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 having considered all of the evidence in the record, finds: Claimant last worked for employer on September 17, 2008. Claimant quit for other employment and because of a health concern that prevented claimant from working swing shifts. Claimant needed to work the regular shift. The new job was better because it did not aggravate claimant's non-work-related health condition. Claimant worked and earned wages from the new job.

REASONING AND CONCLUSIONS OF LAW:

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 health conditions and better employment. Claimant quit on the advice of her doctor. Claimant was given permanent work restrictions that prevented her from working swing shifts. Claimant also had a new job lined up before quitting. The new job was much better for her health. Claimant is qualified for unemployment because she quit in part for new and better employment and worked at the new job.

Employer's account shall not be charged for benefits. Credits shall be transferred to the Unemployment Compensation Fund.

Iowa Code section 96.5-1-a 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:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

DECISION:

The decision of the representative dated January 16, 2009, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Employer's account shall not be charged. Credits shall be transferred to the Unemployment Compensation Fund.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw