

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JO A CORIGLIANO**  
Claimant

**APPEAL NO. 08A-UI-01423-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HOME DEPOT USA INC**  
Employer

**OC: 01/06/08 R: 02  
Claimant: Appellant (1)**

Section 96.5-1-d – Voluntary Leaving/Illness or Injury

**STATEMENT OF THE CASE:**

Jo A. Corigliano (claimant) appealed a representative's January 30, 2008 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Home Depot USA, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 26, 2008. The claimant participated in the hearing. Lisa Negus appeared on the employer's behalf and presented testimony from one other witness, Darrell Horn. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntary quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on March 12, 2003. She worked full time as a décor specialist in the employer's Des Moines, Iowa store. Her last day of work was December 21, 2007.

Prior to August 2007 the claimant usually was not scheduled on Wednesdays and Thursdays. However, beginning in August the employer began scheduling her on Thursdays and off on Tuesdays and Wednesdays. This caused the claimant some difficulties, as she was active in a program at her church on Thursday mornings. The employer also began scheduling her for both Saturday evenings and Sunday mornings, interfering with her church attendance. She complained to the employer regarding this interference with the practice of her faith, and after September 2, 2007 she was not scheduled until later on Thursday and Sunday mornings so she was able to attend the religious observances. However, she continued to resent the employer's actions, and felt the employer's requirement that she present verifying information from her church to be harassment.

In October the employer had a disciplinary discussion with the claimant regarding "scheduling violations," which turned out to be a number of missed punches. The claimant felt the employer

had overblown the seriousness of the matter, also as a form of harassment. On about December 18 the claimant was reviewing some professional materials when the assistant store manager reprimanded her and instructed her she was not to be doing any reading, including of professional material, while she was on the store floor.

The claimant had occasionally been encountering some problems with having an upset stomach, which she attributed to stress and tension from work. On December 21 the claimant left work early due to stomach problems, indicating to her hourly supervisor she would be going to the doctor and might not be in at work the next day. On December 22 she was still ill and her husband told her she should not return to work with the employer. However, the claimant did not call to make any report to the employer and did return for her scheduled work on December 22 and thereafter. On December 27 the employer sent her a letter indicating that if she did not return to work or respond by January 3, 2008, she would be deemed to have voluntarily quit by job abandonment. She made an unsuccessful attempt to contact the employer on January 2 and then a successful attempt on January 5, at which time she advised the employer that she was not returning to work.

The claimant did not obtain any medical diagnosis that her condition was caused or aggravated by the employer's work condition and did not indicate to the employer that if changes were not made to alleviate the stress she asserted was causing or aggravating her condition she was going to quit.

#### **REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit, she would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer.

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.

871 IAC 24.26(6)b provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment.

Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

The claimant has not presented competent evidence showing adequate health reasons to justify her quitting. Further, before quitting she did not inform the employer of the work-related health problem and inform the employer that she intended to quit unless the problem was corrected or reasonably accommodated. Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause. 871 IAC 24.25(21), (23). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). While the claimant's work situation was perhaps not ideal, she has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973). Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

**DECISION:**

The representative's January 30, 2008 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of December 22, 2007, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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