

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY B COLLIER

Claimant

APPEAL NO. 10A-UI-05307-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ASSISTED LIVING CONCEPTS INC

Employer

Original Claim: 03/07/10

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 31, 2010, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 27, 2010. Claimant participated. Employer participated by Shawn Lahr, Operations Specialist, and Tim Dunne, Regional Director Operations.

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 March 11, 2010. Claimant quit because she could no longer physically tolerate the work. Claimant had a total knee replacement that was not caused by a work-related injury. Claimant had multiple complications with the knee. It gradually got worse to the point claimant could no longer work her 40-hour schedule. Claimant was hired to work 40 hours per week. Claimant asked for an accommodation. Claimant was offered a chair to help get her off her feet, but the supervisor did not follow through on the promise. Claimant was not advised by her doctor to quit. Continued work was available if claimant had not quit.

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 a non-work-related health problem. Claimant's inability to work the hours required of the job is not employer's fault. This is not good cause attributable to employer for a quit, because the health condition was not caused by work. Benefits withheld.

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.

DECISION:

The decision of the representative dated March 31, 2010, 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.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw