

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY A ALBRIGHT
Claimant

APPEAL NO. 09A-UI-05577-H

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARAMARK CAMPUS LLC
Employer

**Original Claim: 02/22/09
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

Amy Albright filed an appeal from a decision dated April 1, 2009, reference 03. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held in Sioux City, Iowa, on May 13, 2009. The claimant participated on her own behalf. The employer, Aramark Campus, was paged in the main waiting area at 1:05 p.m. and 1:20 p.m. No one responded and the employer did not participate.

ISSUE:

The issue is whether the claimant quit with good cause attributable to the employer.

FINDINGS OF FACT:

Amy Albright was employed by Aramark Campus from January of 2008 until August 28, 2008, as a full-time dishwasher. She had the summer off because students at the college did the dishwashing until school started again. The first day back, she had little or no help in the kitchen and had to do a great deal of lifting, carrying, and putting away of dishes. By the end of the day, at approximately 3:10 p.m., she noticed her left arm was beginning to hurt. She did not say anything to Mike, the supervisor, but went home. Overnight, the elbow became very sore and inflamed, and she attempted to call Mike the next day. There was no answer at his cell phone and she did not leave any message. The claimant had elected to quit because she had hurt her elbow. She did not attempt to file a first report of accident, she did not leave a message for Mike to call her about her injured elbow, and she did not call Mike's supervisor. She simply failed to return to work and did not seek any medical attention.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 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.

The claimant appears to have been somewhat disgruntled over the fact she did not have adequate help on the first day of work at the beginning of the next school year. There appears to have been some confusion regarding who was to be working and for how long that day. That was part of her reason for quitting, but the major reason appears to have been the injury to her elbow. As she did not seek medical attention, she did not have a doctor's recommendation to quit. She also did not give notice to the employer of the injury and seek medical attention from a workers' compensation claim. She made no attempt to leave a message for her supervisor or to contact him more than just the one time. The record establishes the claimant did not have good cause attributable to the employer for quitting and she is disqualified.

DECISION:

The representative's decision April 1, 2009, reference 03, is affirmed. Amy Albright is disqualified from receiving unemployment benefits and benefits are withheld until she has re-qualified by earning ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw