

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETTY J GATES
Claimant

APPEAL NO: 12A-UI-13296-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE BON-TON DEPARTMENT STORES INC
Employer

OC: 10/07/12
Claimant: Appellant (4/R)

Iowa Code § 96.5(1)a – Quit for Other Employment

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 2, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant did not respond to the hearing notice or participate in the hearing. Kathy Done and Julie Lienemann appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes that as of October 21, 2012, the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer on December 8, 2011. She worked part time. The last day the claimant worked for the employer was September 15, 2012. The claimant then called in sick on days she was scheduled to work the weeks of September 16 and 23. She contacted the employer to explain she was unable to work on October 4 because she was having some surgery. As a result of her surgery, the employer rearranged the schedule so the claimant's hours would be covered.

The employer did not schedule the claimant to work the week of October 14 because the employer did not know when she would be released to work after her surgery. On October 15, the claimant called and asked why she was not scheduled to work. The employer adjusted the schedule and scheduled the claimant to work on October 18, 19 and 20.

On October 18, the claimant called and told Done she had accepted another job and she was resigning effective immediately.

The claimant established a claim for benefits during the week of October 7. She filed claims for the weeks ending October 13, 20 and 27.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits because she has accepted other employment, she is not disqualified from receiving benefits and the employer's account will not be charged. Iowa Code § 96.5(1)a.

The evidence establishes the claimant quit on October 18 when she gave the employer her resignation notice that was effective immediately. The claimant quit because she accepted other employment.

Since the claimant established her claim for benefits and filed weekly claims before she quit, the issue of whether she was able to and available to work these weeks after she had called in sick, informed the employer about a scheduled surgery and did not provide the employer with a release from her doctor, will be remanded to the Claims Section to determine.

DECISION:

The representative's November 2, 2012 determination (reference 01) is modified in the claimant's favor. The claimant voluntarily quit her employment on October 18, 2012, because she had accepted other employment. As of October 21, 2012, the claimant is qualified to receive benefits, and the employer's account is exempt from charge.

The issue of whether the claimant was able to and available for work the weeks ending October 13 and 20 and eligible to receive benefits is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css