

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUTRICE LEWIS

Claimant

APPEAL NO: 10A-UI-17179-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE FOOD STORES

Employer

OC: 10/31/10

Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Lutrice Lewis (claimant) appealed an unemployment insurance decision dated December 9, 2010, reference 03, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Hy-Vee Food Stores (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 17, 2011. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time night stocker from February 2006 through November 1, 2010. She voluntarily quit her employment pursuant to a worker's compensation settlement agreement. The claimant has a permanent lifting restriction of no more than ten pounds but she testified she is able to work. Her treating physician never told her to quit her job but instead "advised her to take it easy."

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. All terminations of employment are generally classified as layoffs, quits, discharges, or other separations. 871 IAC 24.1(113)(a). A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits

employment without good cause attributable to the employer or an employer has discharged the claimant for work-connected misconduct. Iowa Code §§ 96.5-1 and 96.5-2-a.

The evidence establishes the claimant voluntarily quit on November 1, 2010 due to a worker's compensation settlement agreement. There is no Iowa case law on point concerning separations arising from a worker's compensation settlement, but a Minnesota case provides some guidance. A Minnesota court denied benefits to a claimant who resigned as part of a worker's compensation settlement package because the worker could have continued working while pursuing his claim. *Edward v. Sentinel Management Co.*, 611 N.W.2d 366 (Minn. App. 2000). The claimant testified she is able and available to work and that her physician did not advise her to quit her job.

The administrative law judge holds that the evidence has failed to establish that the claimant voluntarily quit for good cause attributable to employer when she terminated the employment relationship because of a worker's compensation settlement. Selling out one's employment as part of a settlement is a voluntary act. This is an arms-length transaction. The claimant opted to accept the settlement rather than return to work for the employer. As such, this is a quit for personal reasons and not for cause attributable to employer.

DECISION:

The unemployment insurance decision dated December 9, 2010, reference 03, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css