

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARITA S ORDENANA
Claimant

APPEAL NO: 07A-UI-00441-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

G M R I INC
Employer

OC: 12/03/06 R: 03
Claimant: Respondent (4/R)

Section 96.5-1 – Voluntary Quit Part-Time Employment

STATEMENT OF THE CASE:

G. M. R. I. Inc. (employer) appealed a representative's January 5, 2007 decision (reference 02) that concluded Margarita S. Ordenana (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 30, 2007. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Carrie Bisby, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in February 2002. The claimant worked as a part-time production cook.

In late November 2006, the claimant told the employer she had to quit because of problems with her feet. Working as a production cook required the claimant to be on her feet too long. After Bisby learned the claimant could not work a job that required her stand on her feet, she talked to the claimant and offered the claimant continued employment that allowed her to work sitting down. During the claimant's five-hour shift, under Bisby's proposal the claimant would have to stand a total of 10 to 15 minutes. The claimant declined this accommodation because she was afraid she would still be on her feet too much. The claimant did not return to work after November 30, 2006.

The claimant established a claim for unemployment insurance benefits during the week of December 3, 2006. The claimant has wages in her base period from other employer(s).

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 or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The facts establish that the claimant quit her employment even after the employer offered her continued employment working at a sit-down job. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code section 96.6-2.

The law presumes a claimant quits with good cause when she leaves employment because continued employment would aggravate an injury to the extent it would be impossible for the claimant to continue working. Before a claimant is qualified to receive benefits she must inform the employer about her health-related problems and the employer cannot make the necessary accommodations to retain the claimant as an employee. 871 IAC 24.26(6)(b). In this case, the claimant informed the employer about her foot problems when she resigned. The employer did not initially accept the claimant's resignation because the employer offered to make reasonable accommodations so the claimant could continue working. The claimant, however, declined continued employment with a sit-down job. The facts do not establish that the claimant quit for reasons that would qualify her to receive benefits if this had been a full-time job.

When a claimant works a part-time job and quits employment without good cause, she may still be qualified to receive benefits even if she has not earned requalifying wages if she is monetarily eligible to receive benefits based on wages from other employers in her base period. Since the claimant has wages in her base period from another employer, it appears the claimant may be monetarily eligible to receive benefits based solely on wages from another employer. This issue, however, is remanded to the Claims Section to review the claimant's base period wages and issue a corrected monetary determination.

Since the claimant voluntarily quit her employment without good cause, the employer's account will not be charged.

DECISION:

The representative's January 5, 2007 decision (reference 02) is modified in the employer's favor. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her part-time employment for reasons that would not qualify the claimant to receive benefits if she had been working full time. Since the claimant has earned wages from another employer in her

base period, it appears she is monetarily eligible to receive benefits based on wages from the other employer. This matter is remanded to the Claims Section to review the claimant's base period wages and issue a corrected monetary determination. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs