

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAZZMAND MARTIN**

Claimant

**APPEAL NO: 16R-UI-07624-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WINEGARD COMPANY**

Employer

**OC: 12/20/15**

**Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the May 10, 2016, reference 02, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 2, 2016. The claimant participated in the hearing. Kerry Hale, Human Resources Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time assembler for Winegard Company from August 12, 2013 to January 28, 2016. She resigned her position because the employer was not accommodating her medical restrictions.

The claimant was out on short-term disability due to a non-work related back injury from October 2015 to December 20, 2015. While on disability the claimant learned she was pregnant. She originally provided a release to return to work effective December 20, 2015, in November 2015, without restrictions. When she discovered she was pregnant her physician provided her with a five-pound lifting restriction and the claimant provided that document to the employer.

When the claimant returned to work her supervisor and group leader failed to follow her lifting restrictions. When the claimant brought up the issue her supervisor stated there were no restrictions on file and instructed her to contact human resources. On January 26, 2016, the claimant called human resources about her department not following her work restrictions. On January 27, 2016, human resources sent the claimant's supervisor an email reminding him of the claimant's work restrictions.

As of January 26, 2016, the claimant was still being required to work outside of her restrictions. She tried to find another employee to do some lifting for her and her supervisor issued her a verbal warning for being outside her work station. As a result of the employer not following her work restrictions and her verbal warning, she submitted her two-week notice January 28, 2016. The claimant also requested vacation and did not return to work after January 28, 2016.

### **REASONING AND CONCLUSIONS OF LAW:**

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code § 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 Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when she quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that she intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d (Iowa 2005).

The claimant provided the employer with her work restrictions in November 2015 to be effective December 20, 2015. She notified the employer of her concerns about her supervisor and team leader failing to follow her work restrictions. As of January 28, 2016, the employer was still not accommodating the claimant's work restrictions. The claimant subsequently quit due to those conditions. Under these circumstances, the administrative law judge must conclude the employer did not follow the claimant's work restrictions, which created intolerable and detrimental working conditions for the claimant. Therefore, benefits must be allowed.

**DECISION:**

The representative's decision dated May 10, 2016, (reference 02) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs