

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

REBECCA M HATHAWAY
Claimant

APPEAL NO. 09A-UI-09400-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAMILY DOLLAR STORES OF IOWA INC
Employer

**Original Claim: 05/24/09
Claimant: Appellant (4)**

Section 96.5-1 - Voluntary Quit
Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 24, 2009, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 16, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Joe Benkis participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked for the employer as an assistant manager from October 2002 to May 25, 2009. Joe Benkis was the claimant's supervisor.

The claimant suffered a mental breakdown and was hospitalized for this condition from May 9 to May 10, 2009. The employer was notified about the claimant's hospitalization and the claimant was off work with a doctor's excuse for the week of May 11. Her doctor advised her that her work was aggravating her mental condition and recommended that she have a more regular schedule. The claimant requested accommodation and proposed a schedule that would allow her to continue to work. The employer would not accommodate her request, because she only was willing to work one night per week and it was not considered fair to the other managers. Consequently, the claimant's doctor advised her to quit employment.

The claimant filed a new claim for unemployment benefits with an effective date of May 24, 2009. On May 27, 2009, the claimant's doctor prepared a statement that he did not want the claimant to work due to medical reasons. The claimant has not been released to return to work.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance rules provide that a claimant is qualified to receive benefits if compelled to leave employment due to a medical condition attributable to the employment. The rules require a claimant: (1) to present competent evidence that conditions at work caused or aggravated the medical condition and made it impossible for the claimant to continue in employment due to a serious health danger and (2) to inform the employer before quitting of the work-related medical condition and that the claimant intends to quit unless the problem is corrected or condition is reasonably accommodated. 871 IAC 24.26(6)b.

The claimant has satisfied the condition of 871 IAC 24.26(6)b. She is not disqualified under the voluntarily quit statute.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The claimant testified that her doctor does not want her working and has not released her to return to work. She is ineligible to receive benefits until she reapplies for benefits and proves that she is able to and available for full-time work.

DECISION:

The unemployment insurance decision dated June 24, 2009, reference 01, is modified in favor of the claimant. She is not subject to disqualification under the voluntary quit statute. She is ineligible to receive benefits until she reapplies for benefits and proves that she is able to and available for full time work.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw