

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIN NOVAK

Claimant

APPEAL NO. 07A-UI-03669-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GENERAC POWER SYSTEMS INC

Employer

**OC: 12/24/06 R: 04
Claimant: Appellant (1)**

Section 96.5-1-d – Voluntary Leaving/Illness or Injury
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

Erin Novak (claimant) appealed an unemployment insurance decision dated April 5, 2007, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Generac Power Systems, Inc. (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 April 23, 2007. The claimant participated in the hearing with Attorney John Doak. The employer participated through Marni Lemberger, Labor Relations Manager. Based on the evidence, the arguments of the parties, 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 having considered all of the evidence in the record, finds that: The claimant was hired full-time in the transfer switch area on September 1, 2005. She was subsequently moved to the assembly test area and worked in that department as an assembler/tester. The claimant was placed on medical restrictions on December 20, 2006, due to non-work-related medical conditions resulting from her pregnancy. The restrictions include working no more than 40 hour per week; no prolonged standing; and no strenuous bending, lifting or stretching. Although under no affirmative duty to do so, the employer was accommodating those restrictions. Due to a slow down in business, nine employees were going to be moved from the assembly test area to the transfer switch area. The employees could have been laid off, but the employer opted to move the employees into a different department instead of laying them off work. The employees were chosen based on various criteria, including whether they had experience in the transfer switch area. The claimant's wages were not going to be affected by the move. The employer held a meeting on

March 16, 2007, in which the supervisor was explaining the situation to the employees who were going to be moved. The claimant stood up, said "this is bullshit", and quit.

The claimant contends she quit because the employer would not accommodate her medical restrictions, but the labor relations manager knew nothing about this until the fact-finding interview for unemployment insurance benefits. The labor relations manager said there would have been no problem accommodating the claimant's restrictions. The claimant continues to be under the same non-work-related medical restrictions.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she stood up during a meeting discussing the scheduled transfer and said it was bullshit and quit. She never discussed her concerns with the employer prior to quitting but stated after the fact that it was because her non-work-related medical restrictions were not going to be accommodated. First of all, the employer has no legal duty to accommodate employee's non-work-related medical restrictions. And secondly, the employer testified it was willing to accommodate the claimant's restrictions, even in the different position.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. The claimant has not satisfied that burden. Benefits are denied.

DECISION:

The unemployment insurance decision dated April 5, 2007, reference 01, 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/kjw