

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA OLSON
Claimant

APPEAL NO. 09A-UI-02256-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNEBAGO INDUSTRIES
Employer

**Original Claim: 01-04-09
Claimant: Appellant (2)**

Iowa Code Section 96.5(1)d – Voluntary Leaving/Illness or Injury

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 9, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 5, 2009. The claimant participated in the hearing. Gary McCarthy, Personnel Supervisor, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits.

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 shipping/receiving distribution technician for Winnebago Industries from April 27, 1981 to January 2, 2009. She suffered a work-related injury to her back and knee and underwent surgery. She was released to return with restrictions September 29, 2008, and returned to her previous job even though it violated her restrictions because the employer had apparently not seen the restrictions yet. She worked for approximately three months before the employer received her restrictions and could not accommodate those restrictions. The claimant was out of medical time, so she decided to quit after giving a two week notice.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer could not accommodate the claimant's restrictions from her work related injury and, consequently, she voluntarily quit.

Iowa Code section 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 Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The employer was unable to accommodate the claimant's restrictions that resulted from her work-related injury. "Good cause" need not be based on fault or wrongdoing on the part of the employer but may be attributable to the employment itself. Rafferty v. Iowa Employment Security Commission, 76 N.W.2d 787 (Iowa 1956). In this case, the employer simply could not accommodate the claimant's restrictions and after her medical leave ran out, she felt she had no choice but to quit. While the claimant is unable to perform work for this particular employer, she is able and available to perform other work. Consequently, benefits are allowed.

DECISION:

The February 9, 2009, reference 01, decision is reversed. The claimant voluntarily left due to a work-related injury that the employer was unable to accommodate. She is also able and available to work. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw