IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

SANDRA L RANGEL
Claimant

SIG INTERNATIONAL IOWA INC
Employer

APPEAL NO. 08A-UI-07992-S2T

ADMINISTRATIVE LAW JUDGE DECISION

OC: 07/06/08 R: 01
Claimant: Respondent (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Sig International Iowa (employer) appealed a representative's August 29, 2008 decision (reference 01) that concluded Sandra Rangel (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 23, 2008. The claimant was represented by Dennis McElwain, Attorney at Law, and participated personally. The employer was represented by Brad DeJong, Attorney at Law, and participated by Julia Meyer, Office Manager, and Corey Buckholtz, Production Manager. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibits One and Two were received into evidence.

ISSUE:

The issue is whether the claimant separated from employment for any disqualifying reason.

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 on February 6, 2007, as a full-time kill floor supervisor. The claimant signed for receipt of the employer's handbook on February 6, 2007. The claimant suffered a work-related injury on April 18, 2007. The employer understood she would have to be given light duty work to meet the physician's restrictions. She relied on the "grey hat" to perform tasks outside her restrictions.

The employer issued the claimant four verbal warnings for attendance issues in 2007. The employer issued the claimant a written warning on March 4, 2008, for performance issues. On February 11, 2008, and March 13, 2008, the claimant was absent due to transportation problems.

On March 19, 2008, the employer spoke to the claimant as she arrived at work. The employer told the claimant she would be demoted to "grey hat" and placed on probation until she improved. The claimant knew the job duties of the position exceeded her restrictions. She told

the employer she would not be able to do the work. The employer told the claimant there was no other job for her. The claimant left the job site.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code section 96.5-1-d 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. But the individual shall not be disqualified if the department finds that:
>
> d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 24.25(36) provides:

> Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:
>
> (36) The claimant maintained that the claimant left due to an illness or injury which was caused or aggravated by the employment. The employer met its burden of proof in establishing that the illness or injury did not exist or was not caused or aggravated by the employment.

The claimant was injured while at work. The claimant's injury was the reason for her separation from employment, because she could not perform the work the employer assigned her to perform. Where disability is caused or aggravated by the employment, a resultant separation is with good cause attributable to the employer. Shontz v. Iowa Employment Security Commission, 248 N.W.2d 88 (Iowa 1976). The claimant's separation from employment was caused by her work-related injury and, therefore, good cause is attributable to the employer. The claimant is qualified to receive benefits provided she is otherwise eligible.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible. The employer's witness could not remember certain important specifics of the claimant's employment.

DECISION:

The representative's August 29, 2008 decision (reference 01) is affirmed. The employer has not met its proof to establish job-related misconduct. Benefits are allowed.

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Beth A. Scheetz
Administrative Law Judge

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Decision Dated and Mailed

bas/kjw