

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLI SANDERS
Claimant

APPEAL NO. 11A-UI-13703-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCZINI ENTERPRISE INC
CAMP BOW WOW – CEDAR RAPIDS
Employer

OC: 09/11/11
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(35) – Non-Job-Related Illness or Injury

STATEMENT OF THE CASE:

The claimant appealed a department decision dated October 5, 2011, reference 01, that held she voluntarily quit employment without good cause on July 21, 2011, and which denied benefits. A telephone hearing was held on November 10, 2011. The claimant did not participate. Robin Cox, manager, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds: The claimant worked for the employer as a part-time camp counselor from April 1, 2008 to July 21, 2011. The employer granted claimant a medical leave of absence for a non-work related wrist surgery beginning July 22, 2011 for a period of up to eight weeks. At the end of the leave period, claimant failed to contact the employer about a return to work. After a period, the employer considered the claimant to have abandoned her job.

Claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(35) 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on September 5, 2011, when she failed to return to work after a medical leave for a non-job-related health issue.

The claimant was granted a medical leave for up to eight weeks and she abandoned her job by failing to return to work.

DECISION:

The department decision dated October 5, 2011, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on September 5, 2011. Benefits are denied until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw