

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

AMY M RICKS
2428 DUGAN AVE
INDEPENDENCE IA 50644

TOYOTA MOTOR CREDIT CORPORATION
c/o TALX UCM SERVICES INC
PO BOX 283
SAINT LOUIS MO 63166-0283

Appeal Number: 04A-UI-06351-S2T
OC: 04/25/04 R: 03
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.1(113)a – Separations From Employment
Section 96.5-1-d - Voluntary Quit for Medical Reasons

STATEMENT OF THE CASE:

Toyota Motor Credit Corporation (employer) appealed a representative's May 28, 2004 decision (reference 01) that concluded Amy Ricks (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 held on July 6, 2004. The claimant participated personally. The employer was represented by Joyce Habel, Hearings Representative, and participated by Jodie Driscoll, Human Resources Generalist.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 12, 1998, and at the end of her employment was working as a full-time lease term clerk. The claimant was expecting twins. The claimant provided the employer with a physician's statement, which indicated that the claimant could not perform her work duties as of July 24, 2003. The claimant notified the employer of her condition and the employer agreed to her absence from work. She took various leaves, which the employer approved through March 31, 2004. The claimant notified the employer that she was certified to return to work by her physician. On or about March 29, 2004, the claimant requested to return to work. No work was available for the claimant.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did not.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. Area Residential Care, Inc. v. Iowa Department of Job Service, 323 N.W.2d 257 (Iowa 1982).

The claimant left work due to pregnancy under the advice of her physician. The employer consented to her leaving. The claimant has provided the employer with certification that she has recovered. In addition, the claimant has offered her services to the employer but the employer had no work available. The claimant has met the requirements of the statute and, therefore, is eligible to receive unemployment insurance benefits.

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The employer laid the claimant off for lack of work as of March 31, 2004. When an employer suspends a claimant from work status, the separation does not prejudice the claimant. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's May 28, 2004 decision (reference 01) is affirmed. The claimant was laid off for lack of work and is eligible to receive unemployment insurance benefits.

bas/kjf