

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER GUSTAFSON
Claimant

APPEAL NO. 10A-UI-12213-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ABBE CENTER FOR COMMUNITY
MENTAL HEALTH**
Employer

**OC: 07/25/10
Claimant: Appellant (1)**

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Jennifer Gustafson, filed an appeal from a decision dated August 24, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 20, 2010. The claimant participated on her own behalf and was represented by Thomas Gustafson. The employer, Abbe Center, participated by Director of Human Resources Michele Wray.

ISSUE:

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

FINDINGS OF FACT:

Jennifer Gustafson was employed by Abbe Center from December 11, 2000 until July 23, 2010 as a full-time team member. On July 8, 2010, the claimant contacted Director of Human Resources Michele Wray to notify her she had been released from the hospital. During that conversation she said her doctor had recommended she no longer work in the clinical area but should do something “less stressful” such as clerical work. Ms. Wray said a her doctor needed to send something in writing with the specific restrictions and recommendations.

The letter from the doctor was received on July 12, 2010, which stated the claimant should do something less stressful than the clinical work and clerical work was recommended. Ms. Wray called the claimant and said there were no clerical positions available. The claimant did not notify Ms. Wray that she was ready, willing or able to return to work in her regular job at the end of her remaining leave time. The next day the employer sent a letter to the claimant thanking her for her years of service and suggesting she submit her résumé in the future when she was able to return to work. Her separation date was intended to be July 23, 2010, when she had used all of her available leave time.

If the claimant had notified the employer she was able and willing to return to her regular job duties before July 23, 2010, she could have continued working without interruption.

Ms. Gustafson filed a claim for unemployment benefits with an effective date of July 25, 2010, and specified in her application her employment had ended July 23, 2010. At the hearing she maintained her employment ended July 13, 2010, the date of the letter.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant's employment ended July 23, 2010, when her leave had been exhausted. She was not able to return to work at that time because the employer did not have any clerical positions available to her. She did not notify the employer she was ready, willing or able to return to her regular job duties. There is no evidence the claimant's medical problems were caused by her job duties and the employer was not obliged to accommodate the doctor's suggestions although it did try.

After the claimant had been released she did not contact the employer to ask to be returned to her regular job duties because she did not believe there were any job openings. She did not explain why she thought that as she had not checked to find out. The record establishes the claimant's separation was not attributable to the employer.

DECISION:

The representative's decision of August 24, 2010, reference 01, is affirmed. Jennifer Gustafson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css

