

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINA L THIELEN
Claimant

APPEAL NO. 08A-UI-05520-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINGS AMERICA TRAVEL CENTRE
Employer

OC: 05/11/08 R: 01
Claimant: Appellant (1)

Section 96.5(1)d – Quit/Medical

STATEMENT OF THE CASE:

The claimant, Tina Thielen, filed an appeal from a decision dated June 3, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 30, 2008. The claimant participated on her own behalf. The employer, Wings America Travel Centre, participated by Restaurant Manager Linda Muehl.

ISSUE:

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

FINDINGS OF FACT:

Tina Thielen was employed by Wings America Travel Center from March 31 until April 13, 2008, as a full-time server. On April 13, 2008, she talked with Restaurant Manager Linda Muehl about taking a medical leave of absence because she had to have surgery. The employer agreed and told her once she had been released to return to work by her doctor, to come back and she would be put on the schedule. As of the date of the hearing the claimant had been released by her doctor but had not returned to her employer to ask to come back to work.

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 has not complied with the requirements of the above Code section. After having been released by her doctor without restrictions, she has not requested her employer to put her back on the work schedule. This is a disqualifying separation.

DECISION:

The representative's decision of June 3, 2008, reference 01, is affirmed. Tina Thielen 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