

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEATHER N HALL

Claimant

APPEAL NO: 12A-UI-04834-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REGENCY REHAB & SKILLED NURSING

Employer

OC: 03/18/12

Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.22(2)j – Leave of Absence

STATEMENT OF THE CASE:

Heather N. Hall (claimant) appealed a representative's April 24, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits in connection with Regency Rehab & Skilled Nursing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 17, 2012. The claimant participated in the hearing. Jill Garner appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

Was there period of voluntary unemployment through a leave of absence?

FINDINGS OF FACT:

The claimant started working for the employer on November 8, 2010. She works full-time as a certified nursing aide (CNA) in the employer's long-term care nursing facility. Her most recent day of work was March 19, 2012. She brought in a doctor's note dated March 16, 2012 indicating that, due to pregnancy, she had a 100-pound pushing restriction, in addition to a 15-pound lifting restriction she had been given on February 7. After the February 7 note, the claimant's duties had been restricted but she could take residents to the showers; but, with the 100-pound pushing restriction, she could no longer perform that function. The claimant's regular job duties require that she be able to lift 50 pounds and to push over 100 pounds. The claimant's work restrictions were anticipated to last through her delivery date, expected to be on June 2. The employer then had no further work available to the claimant within her restrictions.

REASONING AND CONCLUSIONS OF LAW:

For each week for which a claimant seeks unemployment insurance benefits, she must be able and available for work. Iowa Code § 96.4-3. In general, an employee who is only temporarily separated from her employment due to being on a leave of absence is not “able and available” for work during the period of the leave, as it is treated as a period of voluntary unemployment. 871 IAC 24.22(2)j; 871 IAC 24.23(10).

The claimant's current unemployment is due to her being on a leave of absence due to a non-work-related medical issue that restricts her from performing her regular job duties. As the condition causing her temporary unemployment was not caused by the work environment, the employer is not required to create work to accommodate her restrictions. In order to be sufficiently well for the claimant to regain her eligibility status as being able and available for work, she must have a complete recovery to full work duties without restriction. *Hedges v. Iowa Department of Job Service*, 368 N.W.2d 862, 867 (Iowa App. 1985); Iowa Code § 96.5-1-d. Unemployment insurance benefits are not intended to substitute for health or disability benefits. *White v. Employment Appeal Board*, 487 N.W.2d 342 (Iowa 1992). For the period the claimant is seeking unemployment insurance benefits, she was under sufficient work restrictions as would preclude her from returning to her regular work duties. She is therefore not eligible to receive unemployment insurance benefits for this period.

DECISION:

The representative's April 24, 2012 decision (reference 01) is affirmed. The claimant was not able and available for work effective March 19, 2012, and the period of temporary separation was a period of voluntary unemployment not attributable to the employer. The claimant is not qualified to receive unemployment insurance benefits for the period from that date until she has been sufficiently released to return to her regular job duties.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw