

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

AMANDA M HANSEN
2911 – 5TH AVE #4
MARION IA 52302-3773

KELLY SERVICES INC
999 W BIG BEAVER RD
TROY MI 48084-4716

Appeal Number: 06A-UI-04159-CT
OC: 03/19/06 R: 03
Claimant: Respondent (2)

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)

Section 96.5(1)d – Separation Due to Illness/Pregnancy

STATEMENT OF THE CASE:

Kelly Services, Inc. filed an appeal from a representative's decision dated April 6, 2006, reference 03, which held that no disqualification would be imposed regarding Amanda Hansen's July 14, 2005 separation from employment. After due notice was issued, a hearing was held by telephone on May 2, 2006. Ms. Hansen participated personally. The employer participated by Nancy Voelker, Senior Supervisor.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hansen began working for Kelly Services, Inc. on May 4, 2005, and was assigned to work full time at EDS. It was a "temp-to-hire" assignment

that could have resulted in permanent employment with EDS. Ms. Hansen left the assignment on July 14, 2005, before it was completed. She notified the employer that she could not continue working due to complications with her pregnancy. Her doctor had confined her to bed rest for the duration of her pregnancy. Her due date was August 23. Continued work on the assignment would have been available if she had not had to leave.

Ms. Hansen gave birth on August 23, 2005. She was released to return to work six to eight weeks later. Ms. Hansen did not contact Kelly Services, Inc. until one month after she was released to return to work. She was not provided work at that point. She did not resume working for Kelly Services, Inc. until December 7, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Hansen was separated from employment for any disqualifying reason. She left the employment on July 14, 2005, on the advice of her doctor because of problems resulting from her pregnancy. The employer was notified of the need to be absent. The next question is whether she re-offered her services to the employer as required by Iowa Code section 96.5(1)d. The administrative law judge believes the law contemplates that an individual will re-offer her services as soon as released by her doctor to return to work.

Ms. Hansen gave birth on August 23 and acknowledged that she was released to return to work no later than eight weeks after the birth. However, she waited an additional month before seeking a return to work. Although no work was available at that time, there may well have been work if she had re-offered her services when released by her doctor. Because Ms. Hansen did not re-offer her services to the employer in a timely fashion, she is not entitled to benefits pursuant to section 96.5(1)d. Inasmuch as the separation was not for any good cause attributable to the employer, benefits are denied.

No overpayment results from this reversal of the prior allowance as Ms. Hansen has not been paid benefits on her claim filed effective March 19, 2006.

DECISION:

The representative's decision dated April 6, 2006, reference 03, is hereby reversed. Ms. Hansen quit her employment on July 14, 2005 for no good cause attributable to the employer and is not entitled to benefits under any exceptions created by law. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kkf