

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANELL M LUNDIN
Claimant

APPEAL NO. 15A-UI-13051-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESSIBLE MEDICAL STAFFING
Employer

OC: 10/04/15
Claimant: Respondent (1)

Iowa Code Section 96.5(1)d – Voluntary Quit Because of Illness or Injury/Attempt to Return After Recovery

STATEMENT OF THE CASE:

Accessible Medical Staffing filed a timely appeal from a representative's decision dated November 20, 2015 (reference 02) which held claimant eligible to receive unemployment insurance benefits, finding that the claimant left work on September 6, 2015 because of an illness or injury and after recovering offered to return to work but no work was available. After due notice was provided, a telephone hearing was held on December 14, 2015. The claimant participated. The employer participated by Ms. Minden Butler and Ms. Tootie Vitritto. Employer's Exhibit A was admitted into record.

ISSUE:

Did the claimant leave work because of illness or injury and after recovering offer to return to work?

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Danell Lundin was employed by Accessible Medical Staffing beginning in May 2012. Ms. Lundin was assigned to work as a Certified Nursing Assistant at the Hearthstone Care Facility and was paid by the hour.

On September 2, 2015, Ms. Lundin called off work stating that she had a "hip fracture." Subsequently, Ms. Lundin visited a medical practitioner and provided Accessible Medical Staffing an authorization for the claimant to return to work on September 3, 2015. Because of the claimant's previous statement regarding her "hip," the employer believed the doctor's note was not sufficient and requested that Ms. Lundin submit a doctor's release stating that the claimant was released 100 percent with no restrictions. Although Ms. Lundin further attempted to explain that she was physically able to return to work and wanted to do so, and was willing to sign a release or waiver if necessary, the employer did not allow the claimant to return.

Subsequently, Ms. Lundin indicated that she would provide a more comprehensive doctor's release to the employer in an attempt to forward the doctor's release to the company. For reasons unknown, the employer did not receive the more comprehensive doctor's release that the claimant had sent to them and the claimant was not allowed to return to available work.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant left work because of illness or injury and after recovering offered to return to work but no work was available. It does.

Iowa Code § 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.

In the case at hand, the administrative law judge concludes that the evidence establishes that Ms. Lundin did leave work temporarily because of illness or injury and subsequently offered the employer a doctor's statement verifying that she had sufficiently recovered and was able to return to her normal duties. Because of miscommunication between the parties, it appears that the employer believed that Ms. Lundin's injuries were more serious and would not allow the claimant to return to work.

Based upon the evidence in the record and the application of the appropriate laws, the administrative law judge concludes that the claimant was separated from employment for no disqualifying reason. Benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated November 20, 2015 (reference 02) is affirmed. The claimant left work on September 6, 2015 because of illness or injury and after recovering offered to return to work but no work was available. The claimant had recovered and was able to return to work without limitations.

Upon application of the facts and the appropriate law, the administrative law judge concludes that the claimant was separated from employment for no disqualifying reason. Benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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