

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIA J JAMIESON

Claimant

APPEAL NO. 07A-UI-08694-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA REGIONAL HEALTH CENTER

Employer

**OC: 07/29/07 R: 03
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 7, 2007, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on September 26, 2007. Claimant participated. Employer participated by Ashley Arkema, Human Resource Specialist. Exhibits A and One were admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on June 21, 2007. Claimant went off work due to serious medical needs. Claimant was not eligible for FMLA. Claimant was granted a leave of absence through July 19, 2007. Claimant was contacted by employer to let her know she was back on the schedule. Claimant informed the employer that she was off work and still under a doctor's care through July 30, 2007. Claimant called the employer to ask for her job back on July 27, 2007 but the employer had already terminated the employment relationship due to over extending the leave of absence.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because claimant over extended a leave of absence. Claimant informed the employer of the medical need to be off work. Claimant contacted the employer immediately upon release from medical care and asked for her job back. No work was offered by employer. Absenteeism due to illness is excusable if properly reported. Here the employer did know that claimant was off work and under medical care. Claimant promptly informed the employer of her release to return to work. The early termination of employment by employer is a separation for cause attributable to employer. Benefits allowed.

Iowa Code section 96.5-1 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.

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.

DECISION:

The decision of the representative dated September 7, 2007, reference 02, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css