

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRYSTAL L EGGERS
Claimant

APPEAL NO: 06A-UI-08570-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 07/09/06 R: 03
Claimant: Appellant (5)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Crystal L. Eggers (claimant) appealed a representative's August 16, 2006 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was on a requested leave of absence. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 12, 2006. The claimant participated in the hearing. Lynn Corbeil, an attorney, appeared on behalf of Care Initiatives (employer). Belinda Cameron and Jim Wilson testified 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.

ISSUE:

Is the claimant eligible to receive unemployment insurance benefits as of July 9, 2006, after her doctor restricted her from doing any lifting and her job required her to lift 50 pounds?

FINDINGS OF FACT:

The claimant started working for the employer in November 2005. Since March 2006, the claimant has worked as a full-time certified nurse assistant (CNA) for the employer. The claimant's job duties require her to lift 50 pounds because she regularly lifts or assists in lifting residents.

The claimant was off work for medical reasons associated with her pregnancy June 30 through July 5. On July 3, the claimant gave the employer a work restriction from her doctor. The claimant's doctor restricted her from doing any lifting and all strenuous activities. The employer was unable to accommodate these work restrictions because they prevented the claimant from performing the majority of her work. The employer placed the claimant on a leave of absence.

The claimant established a claim for unemployment insurance benefits during the week of July 9, 2006. The claimant's child was born on July 28, 2006. The claimant was on maternity leave July 28 through September 11. On September 8, 2006, the employer received a release

from the claimant's doctor indicating she no longer had any work restrictions. The claimant returned to working full time for the employer on September 11, 2006.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for unemployment insurance benefits, she must be able to and available for work. Iowa Code § 96.4-3. When a claimant has requested and been granted a leave of absence, the law presumes she is voluntarily unemployed. 871 IAC 24.23(10).

The facts show the claimant did not request a leave of absence. The claimant wanted to continue working even with the work her restrictions. The claimant expected the employer to make special accommodations so she could work at least some of the time. Even though the claimant did not request a leave of absence, her work restrictions severely limited the work she was able to do. As a result of her work restrictions, the claimant's availability for work was unduly limited because she was only able to do limited work even though her regular job was available. As a result of her availability restrictions, the claimant is not eligible to receive unemployment insurance benefits as of July 9, 2006. 871 IAC 24.23(18).

DECISION:

The representative's August 16, 2006 decision (reference 01) is modified, but the modification has no legal consequence. The claimant did not request a leave of absence and is not ineligible to receive benefits on this basis. The work restrictions the claimant's doctor gave the claimant in early July make her unavailable for work because the work restrictions unduly limit the type of work the claimant was capable of doing as of July 9. Therefore, as of July 9, the claimant is not eligible to receive benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw