

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SALLY J JEFFERY

Claimant

APPEAL NO. 10A-UI-00928-SW

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA

Employer

OC: 12/13/09

Claimant: Appellant (4-R)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 11, 2010, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A hearing was held on March 1, 2010, in Des Moines, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. Exhibits A and B were admitted into evidence at the hearing.

ISSUES:

Was the claimant discharged for work-connected misconduct?

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked full time as a loan-servicing specialist from June 12, 2009, to April 9, 2009. After April 9, 2009, the claimant was off-work due to mental health issue. She was excused from working by her psychiatrist and was approved for a medical leave under the employer's leave policies.

In October 2009, the employer required that the claimant provide additional medical documentation to justify continuing the medical leave of absence. The claimant had not been released to return to work by her doctor so she provided her psychiatrist with a health care provider certification form to complete. When she turned in the form, she was informed that the doctor had not completed the form correctly. The claimant contacted her doctor to have him properly complete the documentation. The doctor was supposed to fax it in by November 16 but did not so.

Because the employer did not receive the required medical documentation, her request for an additional leave of absence was denied in a letter dated November 16. The claimant again contacted her doctor to get the medical documentation faxed in. She understood that he had provided the necessary certification to extend her leave.

On December 11, 2009, the employer sent a letter notifying her that her employment was terminated because she had not provided documentation to continue on her medical leave.

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 13, 2009. When she applied for unemployment benefits, she was not released by her doctor to work, was not able to work, and was not looking for work. Although she started looking for work in starting in January 2010, she has not yet been released to work full time by her doctor.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code section 96.5-1 and 96.5-2-a. Based on the evidence, the claimant did not quit her job, but was instead discharged for the employer when it did not receive medical documentation from her doctor to extend her leave. This was not the claimant's fault as she believed her doctor had supplied the needed documentation. No work-connected misconduct has been proven in this case.

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code section 96.4-3. The claimant clearly was unable to work when she filed for unemployment insurance benefits as she was not released by her doctor to return to work and was not even looking for work. She still has not been released by her doctor to return to work. The claimant had been off work for close to eight months receiving treatment for a mental health issue that prevented her from working, and she cannot demonstrate her ability to work by saying she now feels better and well enough to work. To receive benefits, the claimant is required to submit a release from a doctor to a local Workforce Development Center that states that she is able to work full time in some occupation that the claimant is suited for by training and experience. She will need to request that the availability disqualification be removed.

DECISION:

The unemployment insurance decision dated November 11, 2010, reference 01, is modified in favor of the claimant. She was discharged but not for work-connected misconduct. She is denied benefits, however, because she has not established that she is able to and available for work.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs