

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEXANDREA J WELDON
Claimant

APPEAL NO: 11A-UI-11480-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

SECURITAS SECURITY SERVICES USA
Employer

**OC: 07/17/11
Claimant: Appellant (5)**

Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 23, 2011 determination (reference 01) that denied her benefits as of July 17, 2011, because she was voluntarily unemployed and was not available to work. The claimant participated at the hearing. David Williams represented the employer. Brian Chatham, the human resource manager, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is not eligible to receive benefits July 17 through August 6, 2011.

ISSUE:

Was the claimant available to work July 17 through August 6, 2011?

FINDINGS OF FACT:

The claimant started working for the employer in November 2009. She works as a full-time security guard. On May 28, 2011, the claimant's physician restricted the claimant from working and put her on bed rest until her child was born.

The claimant had complications and her physician did not release her to return to work until August 4. When the claimant was restricted from working by her physician, Chatham classified her as on a leave of absence so the employer's corporate office would not end her employment. Chatham did this to guarantee the claimant had a job when she was released by her physician to return to work. After her physician released her to return to work on August 4, the employer had the claimant scheduled to work again as of August 8, 2011.

The claimant established a claim for benefits during the week of July 17, 2011. She filed claims until she returned to work for the employer on August 8, 2011.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). Even though the claimant did not make a specific request for a leave of absence, she was unavailable to work until her physician released her to work. The claimant's

physician restricted her from working May 28 through August 4, 2011. When a physician restricts a claimant from working, the law presumes the claimant is not available for work. 871 IAC 24.23(6).

Even though the claimant did not verbalize a request for a leave of absence, she tacitly requested a leave when she gave the employer her work restrictions in late May 2011. The work restrictions informed the employer she was not able to or available for work until her physician released her to return to work. In other words, the claimant did not specifically ask for a leave of absence even though she could not work based on her physician's work restrictions.

Unfortunately, the claimant experienced complications and her physician did not release her to return to work until August 4. Therefore, the claimant is not eligible to receive benefits for the weeks ending July 23 through August 6, 2011. The claimant is not eligible to receive benefits these weeks because she was not available to work until her physician released her to work.

DECISION:

The representative's August 23, 2011 determination (reference 01) is modified, but the modification has no legal consequence. Even though the claimant did not ask the employer for a leave of absence, her physician restricted her from working May 28 through August 4, 2011. Therefore, she was not able to or available for work until the week of August 7, 2011. The claimant is not eligible to receive benefits for the weeks ending July 23 through August 6, 2011.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css