

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANNON C HAMMONS**  
Claimant

**APPEAL NO. 10A-UI-15862-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 10/03/10**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit  
Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated November 10, 2010, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on January 3, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Alyce Smolsky participated in the hearing on behalf of the employer with witnesses, Paul Crane, Sandy Rooker, and Julie Davis.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a cook from March 2000 to March 5, 2010. She suffered a stroke and was on medical leave under the Family and Medical Leave Act (FMLA) based on a doctor's excuse that took her off work until May 19, 2010.

Around May 19, 2010, the claimant's supervisors called her to find out her status. She told the supervisors she was still unable to work. The supervisors informed her that the employer would need a new medical excuse for her to continue on FMLA leave. No excuse was received. In June 2010, the administrator sent the claimant a letter, which the claimant received on June 12, notifying her that she had not supplied the doctor's certification to remain on FMLA and if the employer did not receive the notification by June 18, 2010, that it would assume she was resigning her position as cook. The claimant did not supply another doctor's certification because she did not believe she could work. Later, she informed a supervisor that she was quitting. She was never advised by a physician to quit her employment.

The claimant was released to return to work by her doctor in October 2010. She did not contact the employer about returning to work.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

The unemployment insurance law provides that individual is qualified to receive benefits if she: (1) left employment because of illness, injury or pregnancy with the advice of a licensed and practicing physician, (2) notified the employer that she needed to be absent because of the illness or injury, and (3) offered to return to work for the employer when recovery was certified by a licensed and practicing physician, but her regular work or comparable suitable work was not available. Iowa Code § 96.5-1-d. There is also a provision in the law allowing benefits for claimants who leave employment due to a medical condition attributable to the employment. 871 IAC 24.26(6)b. Neither of these provisions apply here because the claimant was never advised to leave employment, she has not offered to return to work, and the medical condition was not attributable to the employment.

The final 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 § 96.4-3. Since the claimant has been released by her doctor to work and has been seeking work she is able to do, no disqualification should be imposed for being unable to or unavailable for work.

**DECISION:**

The unemployment insurance decision dated November 10, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/css