

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHARI INGLES**

Claimant

**APPEAL NO. 11A-UI-05756-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEDONA STAFFING**

Employer

**OC: 12/05/10**

**Claimant: Respondent (1-R)**

Section 96.5(1)d – Separation Due to Illness/Injury

**STATEMENT OF THE CASE:**

Sedona Staffing filed an appeal from a representative's decision dated April 21, 2011, reference 02, which held that no disqualification would be imposed regarding Shari Ingles' separation from employment. After due notice was issued, a hearing was held by telephone on May 26, 2011. The employer participated by Chad Baker, Workers' Compensation Administrator, and Kathy Hutchinson, Branch Manager. Ms. Ingles responded to the notice of hearing but was not available at the number provided at the scheduled time of the hearing.

**ISSUE:**

At issue in this matter is whether Ms. Ingles was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Ingles began working through Sedona Staffing on October 18, 2010 and was assigned to work full time for M C Industries. Her last day of work was October 27 when she was taken from work by ambulance because of chest pains. Sedona Staffing spoke with her on October 29 and told her she could come back when released by her doctor.

Sedona Staffing spoke to Ms. Ingles again on November 8 but she still did not have a release from her doctor. The employer did not hear further from her until January 27 when she called to report that she had been fully released. She has not been offered work since that date. Ms. Ingles did not restrict her geographic availability on the application for work. She indicated she would commute depending on the wage offered.

Ms. Ingles filed a claim for job insurance benefits effective December 5, 2010. She has claimed benefits each week since the filing.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. Ingles left her employment through Sedona Staffing on October 27, 2010 because of chest pains. There was no evidence that her chest pains were caused or aggravated by the employment. She gave the employer the impression that she was off work after October 27 on her doctor's recommendation. For the above reasons, the provisions of Iowa Code § 96.5(1)d are applicable. Ms. Ingles left work on the advice of a doctor and immediately notified the employer of the need to be absent as required by the statute.

The statute requires that the individual return to the employer and re-offer her services once she recovers and is released by her doctor. The statute makes no distinction between a medical condition that is work-related and one that is not. Ms. Ingles returned to Sedona Staffing after being released by her doctor but no work was made available. Although she may have expressed a desire to work for a particular company in the area where she lived, she indicated at the time of hire that she would commute if the wages offered were satisfactory. The employer did not offer her other work so she would have the opportunity to consider possibly commuting. For the reasons cited herein, it is concluded that Ms. Ingles is entitled to benefits pursuant to section 96.5(1)d.

The facts of this case raise the issue of whether Ms. Ingles satisfied the availability requirements of Iowa Code § 96.4(3) from December 5, 2010 when she filed her claim until January 27, 2011 when she notified Sedona Staffing that she had been released to work. This matter shall be remanded to Claims to investigate her ability to work during the period referenced above.

**DECISION:**

The representative's decision dated April 21, 2011, reference 02, is hereby affirmed. Ms. Ingles was separated from Sedona Staffing on October 27, 2010 for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. This matter is remanded to Claims to investigate her ability to work from December 5, 2010 through January 27, 2011.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs