

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BROOKE L DONALDSON
Claimant

APPEAL NO. 06A-UI-11711-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LUTHER CARE SERVICES
Employer

**OC: 10/25/06 R: 02
Claimant: Appellant (1)**

Section 96.5(1)d – Separation Due to Injury

STATEMENT OF THE CASE:

Brooke Donaldson filed an appeal from a representative's decision dated December 1, 2006, reference 02, which held she was not available for work. After due notice was issued, a hearing was held by telephone on December 20, 2006. Ms. Donaldson participated personally. The employer participated by June Asher, Human Resources Manager.

ISSUE:

At issue in this matter is whether Ms. Donaldson is eligible to receive job insurance benefits on her claim filed effective October 29, 2006.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Donaldson began working for Luther Care Services on October 10, 2005 as a full-time certified nursing assistant (CNA). She was involved in a car accident away from work on May 3, 2006. The employer was made aware of the need to be absent. Ms. Donaldson was released to return to full duty effective July 21. The employer did not have a full-time CNA position available at the time but did offer her on-call work.

A full-time CNA position became available after July 21, but Ms. Donaldson indicated she did not know if she was ready for a full-time position. She was to let the employer know if she was accepting the position. Ms. Donaldson worked on-call from August 25 through September 22. When she spoke to the employer at the end of October, she indicated she had to have an MRI and would have a better idea of her work abilities after she received the results. After the MRI, Ms. Donaldson's doctor imposed lifting restrictions that prevented her from performing her normal job. She filed a claim for job insurance benefits effective October 29, 2006.

REASONING AND CONCLUSIONS OF LAW:

Ms. Donaldson is currently unemployed because she cannot perform the essential functions of her job due to injuries she sustained on May 3, 2006. She had been released to full duty at one point, but the doctor resumed the restrictions. As of the date she filed her claim for job

insurance benefits, Ms. Donaldson had work restrictions that prevented her from working as a CNA. Therefore, it is concluded that she had not recovered from her injuries within the meaning of Iowa Code section 96.5(1)d. Where an individual's condition is not work-related, the term "recovery" means that the individual has been released to work without limitations or restrictions. See Hedges v. Iowa Department of Job Service, 368 N.W.2d 862 (Iowa 1985). Because Ms. Donaldson has not been released to full duty, she is not entitled to benefits pursuant to section 96.5(1)d.

DECISION:

The representative's decision dated December 1, 2006, reference 02, is hereby affirmed. Ms. Donaldson is not eligible to receive job insurance benefits, because she has not been released to full duty. Benefits are withheld until she recovers from her injuries and re-offers her services to the employer, provided no suitable comparable work is available and she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw