

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANET SPINDOLA

Claimant

APPEAL NO: 11A-UI-10501-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GOLDEN CIRCLE BUS SOLUTIONS INC
PORTICOHR**

Employer

OC: 07/10/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(35) – Non-Job Related Issue/Pregnancy
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 8, 2011, reference 01, that held she voluntarily quit employment without good cause attributable to the employer on June 9, 2011, and benefits are denied. A telephone hearing was scheduled and held on August 30, 2011. The claimant participated. Dawn Vale, Staffing Manager, participated for the employer.

ISSUES:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

The issue is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began work for the employer on assignment at Diece.com as a full-time customer service worker (temp-to-hire) on March 17, 2011. The claimant last worked for the employer on June 8 when she had a doctor appointment for her pregnancy.

Claimant's doctor advised claimant to be admitted to the hospital for bed rest beginning June 9. She called the employer to notify it she had to end her assignment as she could no longer work pending child delivery. The employer accepted the message as an employment resignation.

After delivery, claimant called the employer on July 11 about work, but nothing was available. Claimant was given a doctor release to return to work without restriction effective July 25, but she did not contact the employer about a return to work and/or provide the release to the employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The administrative law judge concludes that the claimant voluntarily quit employment without good cause attributable to the employer on June 9, 2011 due to a non-job-related pregnancy and she failed to return to work on July 25 when she received an unrestricted work release.

Although the claimant contacted the employer about work post child delivery, she failed to do so when her doctor certified her work release on July 25 without restriction. There is no evidence the claimant sought work with the employer on or after July 25.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept

suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The administrative law judge further concludes claimant is able and available for work due to receiving an unrestricted doctor's release to work.

DECISION:

The department decision dated August 8, 2011, reference 01, is affirmed. The claimant voluntarily quit without good cause attributable to the employer on June 9, 2011. Benefits are denied until the claimant has worked in and is paid wages for insured work, equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible. The claimant is able and available for work.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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