

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETTY HUMPHREY

Claimant

APPEAL NO. 08A-UI-11649-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TRINITY MEDICAL CENTER

Employer

**OC: 11/09/08 R: 04
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Betty Humphrey (claimant) appealed a representative's December 5, 2008 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Trinity Medical Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for December 29, 2008. The claimant participated personally. The employer participated by Janis Smelek, Human Resource Business Partner; Jim McMahon, Manager of Nutrition Services; and Liza Kline, Director of Patient Support Services.

ISSUE:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 26, 2001, as a full-time nutrition aide. The claimant's adult daughter has been diagnosed with type 1 diabetes and terminal cancer. The claimant requested and was granted Family Medical Leave. On October 24, 2008, she gave notice to the employer that her last day of work would be November 7, 2008. Continued work was available had the claimant not resigned. The claimant continues to care for her daughter but is able to work part-time hours in the morning or evenings.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5-1-c 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The claimant left work to take care of her daughter who was ill. The claimant's daughter has not sufficiently recovered and the claimant has not returned to and offered her services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

The next issue is whether the claimant is able and available for work. For the following reasons the administrative law judge concludes she is.

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 claimant is able and available to work in the mornings and evenings. She is considered able and available for work.

DECISION:

The representative's December 5, 2008 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the

claimant's weekly benefit amount provided the claimant is otherwise eligible. The claimant is considered able and available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css