

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CAROLYN R ENNENGA
Claimant

APPEAL NO. 10A-UI-11157-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANKENY LODGE & SUITES
AMERIC INN LODGE & SUITES**
Employer

OC: 07/04/10
Claimant: Appellant (1/R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Carolyn Ennenga (claimant) appealed a representative's August 2, 2010 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Ankeny Lodge & Suites (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for September 29, 2010, in Des Moines, Iowa. The claimant participated personally. The employer participated by Julie Wright, General Manager.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 August 3, 2009, as a part-time housekeeper. The claimant has numerous health issues. On May 30, 2010, the claimant walked off the job and told the receptionist she was in pain. The claimant's condition is not work related. Continued work was available had the claimant not resigned.

The claimant testified at the hearing that she has been unable to work since May 30, 2010, and continues to be unable to work.

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-d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). A claimant is not disqualified for leaving employment if he or she (1) left employment by reason of illness, injury or pregnancy; (2) on the advice of a licensed and practicing physician; (3) and immediately notified the employer or the employer consented to the absence; (4) and when certified as recovered by a physician, the individual returned to the employer and offered services but the regular or comparable suitable work was not available. Area Residential Care, Inc. v. Iowa Department of Job Service, 323 N.W.2d 257 (Iowa 1982).

The claimant left work due to an illness without the advice of her physician. The employer was not advised of her leaving until she walked out. The claimant has no certification that she has recovered. In addition the claimant has failed to offer 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 issue of whether the claimant is able and available for work is remanded for determination.

DECISION:

The representative's August 2, 2010 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are denied.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css