

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDSAY R RECKLING
Claimant

APPEAL NO. 07A-UI-09409-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PENFORD PRODUCTS CO
Employer

**OC: 09/09/07 R: 03
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit
Section 96.5-1-d – Able and Available for Work

STATEMENT OF THE CASE:

Lindsay Reckling filed an appeal from a representative's decision dated October 3, 2007, reference 01, which denied benefits based upon her separation from Penford Products Company. After due notice was issued, a telephone conference hearing was scheduled for and held on October 22, 2007. Ms. Reckling participated personally. Although duly notified, the employer did not participate. Claimant's Exhibits One and Two were received into evidence.

ISSUE:

At issue in this matter is whether the claimant quit for good attributable to the employer and whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from August 4, 2002, until September 12, 2007, when she voluntarily quit work due to a non-work-related medical reason. Ms. Reckling worked as a full-time warehouse worker and was paid by the hour.

Ms. Reckling began a medical leave of absence on August 21, 2006, due to a doctor's limitation that prohibited her from working in excess of 40 hours per week. After the birth of her child, it was determined that the claimant was suffering from a cardiac condition; and based upon a medical evaluation, it was determined that the claimant was unable to return to her job at Penford Products Company. Ms. Reckling received medical disability payments until August 21, 2007, and at that time elected to quit her employment with Penford Products Company, as she was unable to return to work due to her non-work-related medical condition.

At the time of hearing, the claimant had not been released to return to Penford Products Company by her physician. The claimant has actively sought employment after claiming benefits by contacting prospective employers, seeking work within her medical limitations.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the evidence in the record, that the claimant left her employment with Penford Products Company because of pregnancy and subsequently because of a medical condition that was not related to her employment. Although Ms. Reckling left her employment on the advice of her physician, at the time of hearing the claimant has not been released and has not contacted Penford Products Company to return to her regular employment.

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 24.26(6)a provides that separations because of illness, injury or pregnancy that were non-employment-related separations are with good cause attributable to the employer if the claimant left upon advice of a licensed and practicing physician and upon recovery, when certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer but no suitable comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

For the reasons stated herein, the administrative law judge must conclude that because the claimant left employment for medical reasons that were non-employment-related reasons and the claimant has not been released to return to full work, her leaving was not attributable to the employer. Accordingly, benefits are withheld.

The administrative law judge concludes, based upon the evidence in the record, that the claimant, however, is able and available for work of a lighter-duty nature that may be available in general employment with other employers.

DECISION:

The representative's decision dated October 3, 2007, reference 01, is hereby affirmed. The claimant quit employment for reasons that are not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw