

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELYNA M CARTER-NOEL**  
Claimant

**APPEAL NO. 09A-UI-19262-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOC SERVICES LLC**  
Employer

**Original Claim: 11/15/09  
Claimant: Appellant (1)**

Section 96.5(1) – Quit/Medical

**STATEMENT OF THE CASE:**

The claimant, Melyna Carter Noel, filed an appeal from a decision dated December 14, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 27, 2009. The claimant participated on her own behalf. The employer, IOC Services, participated by Employee Relations Supervisor Jamie Briesch and Benefits Supervisor Marcie Schmidt.

**ISSUE:**

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

**FINDINGS OF FACT:**

Melyna Carter-Noel was employed by IOC Services from October 30, 2006 until November 1, 2009 as a full-time cage supervisor. Ms. Carter-Noel was on FMLA from July 16 through September 27, 2009, for a non-work-related medical condition. The employer received a note from the claimant's physician written on September 30 2009, requesting the medical leave of absence be extended until October 31, 2009, and this was granted.

The claimant was no-call/no-show to work on October 31, 2009. The employer sent her a certified letter on November 2, 2009, to her address of record, which was returned unclaimed on November 19, 2009, after two delivery attempts. Benefits Supervisor Marcie Schmidt attempted to call the claimant at her two phone numbers of record but did not receive an answer or a response to the messages which were left.

The claimant maintained she had left a voice mail message for Ms. Schmidt on October 30, 2009, stating she could not get in to see the recommended specialist until November 9, 2009, at which time she expected to be released to return to work. She did not follow up this message with any attempt to make personal contact with the benefits supervisor to make sure the extra time would be allowed. Ms. Schmidt did not receive the message.

The claimant heard from a co-worker on November 3, 2009, that Cage Shift Supervisor Holly Skiver had announced in a meeting that Ms. Carter-Noel would not be returning. At that point,

the claimant made no attempt to contact the employer and try to maintain her job. She did not return to work after being released by her doctor to request her job back.

**REASONING AND CONCLUSIONS OF LAW:**

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.

The claimant had been granted one extension to her medical leave but did not make any attempt to make sure she would be granted a second extension. For reasons that are not clear, she assumed a voice mail message would guarantee the extension would be granted. She made no attempt at all to contact the employer after receiving the second-hand report from a co-worker that her job had been eliminated. There was no attempt to discuss the situation, provide the eventual work release, or to even prove she had called Ms. Schmidt the day before her leave expired.

She failed to return to work and request her job back once she had been released to return to work. Under the provisions of the above Code section, this is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of December 14, 2009, reference 01, is affirmed. Melyna Carter-Noel is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw