

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHANTEL BISCHOF
Claimant

APPEAL NO: 14A-UI-07549-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

RYDER INTEGRATED LOGISTICS INC
Employer

OC: 06/22/14
Claimant: Respondent (1)

Iowa Code Section 96.5(1)d – Voluntary Leaving/Illness or Injury
871 IAC 24.26(6) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 14, 2014, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 14, 2014. The claimant participated in the hearing. Jordan VanErsvelde, Customer Logistics Coordinator, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired a full-time paint clerk for Ryder Integrated Logistics October 1, 2013, and continues to be employed in that capacity to date.

The claimant was experiencing problems with her pregnancy and was unable to work pursuant to medical advice from a treating physician from June 15 through June 16, 2014, at which time she returned with a doctor's note releasing her to return to work with a lifting restriction but her manager did not find that note sufficient and consequently sent the claimant home after she was at work for 15 minutes even though she was not required to lift in her position as a paint clerk. She was instructed that her physician needed to complete ADA paperwork and she was not allowed to work while that was being done until June 18, 2014. On June 16, 2014, the employer contacted the claimant to tell her to take the paperwork to her doctor and stated it would "take a while" for the employer to find a position for her to try. On June 19, 2014, the claimant's physician called to tell her the paperwork was done. The claimant took the paperwork to the employer who still would not accept it. The claimant returned to her doctor's office that day and went back to the employer with the newly completed paperwork that day and was told she had to wait for a call from the employer and it would take no longer than five business days. On June 25, 2014, the claimant called to see if the employer had a position available for her yet but was told it did not at that time. On June 27, 2014, the employer called the claimant and stated it

would call her back by that evening to let her know what position she could have. The claimant tried to call the employer back that afternoon but did not get an answer. On June 29, 2014, the employer called the claimant at 12:30 p.m. and stated she could return to her original job at 10:00 p.m. that evening.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes no work was available to the claimant upon her release to return to work from a non-work-related injury.

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.

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.

871 IAC 24.26(6)b provides:

(6) Separation because of illness, injury, or pregnancy.

b. Non-employment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was 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.

The claimant's return to the employer to offer services after the medical recovery evinces an intention to continue working. Therefore, the temporary separation between June 19 and June 29, 2014, was attributable to a lack of work by the employer. Benefits are allowed the week ending June 28, 2014.

DECISION:

The July 14, 2014, reference 03, decision is affirmed. The claimant was laid off due to a lack of work from June 19 through June 29, 2014. Benefits are allowed for the week ending June 28, 2014, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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