

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FREDRISHA L BENNETT
Claimant

APPEAL NO. 09A-UI-02383-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT HALF CORPORATION
Employer

**OC: 12/07/08
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 4, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 9, 2009. Claimant participated. Employer participated by Abbie Timmerman, Branch Manager.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 1, 2008. Claimant left work due to illness. Claimant informed employer through the client that she was off work due to illness. Claimant was able to return to work December 4, 2008 while participating in an outpatient treatment program. Claimant contacted employer to ask for a further assignment. Claimant was in a treatment program at that time but was able to work. Claimant was told by an employer representative that she should finish treatment and then come back to ask for work.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of illness. Claimant did inform the employer of the need to be off work. Claimant then contacted employer to ask for her job back. Employer told claimant to complete treatment and then ask for work. Claimant did leave for cause attributable to employer as claimant immediately asked for work once recovery was sufficient to allow full-time gainful employment. Employer's failure to offer work makes this good cause attributable to employer for a quit.

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.

DECISION:

The decision of the representative dated February 4, 2009, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs