

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

LASHAUN RUNNELS

Claimant,

and

STONEHILL CARE CENTER

Employer.

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HEARING NUMBER: 14B-UI-06979

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.4-3, 24.22-2J1

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board affirms as to the timeliness, able and available issues; but **REVERSES, as to the separation issue**, as set forth below.

FINDINGS OF FACT:

The Claimant, Lashaun Runnels, worked for Stonehill Care Center from January 2013 through May 13, 2014 as a full-time cook/dietary aide. Ms. Runnels' usual work hours were 11:00 a.m. to 7:30 p.m. The Claimant had Fridays and every other weekend off. She was responsible for preparing meals and for assisting with serving meals. Her work included lifting large pans of food that might weigh 25-50 pounds and placing them in buffet warmers. Ms. Runnels' immediate supervisor was Kathy Selle, Food Service Director.

On May 3, 2014, the Claimant learned that she was 6 weeks pregnant. She suffered from pregnancy-related lower abdominal pain. Ms. Runnels told Ms. Selle that her work duties were becoming increasingly difficult to perform, which the latter, in turn, informed her that she was required to have a doctor's excuse for light duty. The Claimant sought medical attention and was placed on medical leave for two days.

After several absences and calling off work due to pregnancy-related illness, the Employer via Beth Schmitt, the Human Resources Manager, advised her to complete FMLA paperwork. Her leave began May 13, 2014. The Employer gave her 15 days to complete the FMLA paperwork in order to preserve her employment. The Claimant had not yet received her medical card, and was unable to secure a doctor to complete her FMLA paperwork. On or about May 27, the Claimant picked up the FMLA paperwork. Ms. Schmitt directed Ms. Selle to take Ms. Runnels off the work schedule until Ms. Runnels' doctor indicated Ms. Runnels could return to work. The Employer also informed the Claimant that if she did not timely return the paperwork, she did not know how long she could hold her job open for her.

The following week, the Claimant filed a claim for benefits that was effective June 1, 2014. A fact-finding interview was held on June 16, 2014 in which Ms. Runnels and Ms. Schmitt participated to discuss the Claimant's ability to work and availability for work. Ms. Schmitt told the claims deputy that Ms. Runnels was still considered an employee with Stonehill. Up to that point, the Claimant had not returned to work due to her pregnancy-related illness; nor had she provided the Employer with the completed FMLA paperwork as requested. It wasn't until June 25, 2014 that the Claimant was able to see a doctor and obtain a release to return to work without restrictions. Ms. Runnels did not present this release to the Employer because she assumed she had been terminated.

REASONING AND CONCLUSIONS OF LAW:

The record supports that both parties treated the Claimant's absences beginning May 13th, 2014 as an approved leave of absence. The Claimant, however, was unable to comply with the Employer's directive to submit FMLA papers within the timeframe requested (15 days from May 19th). At no time did the Employer tell the Claimant that she would be terminated. Rather, the Employer indicated that she did not know how long the Employer would be able to hold the Claimant's particular position in light of her continued absences and lack of FMLA paperwork. Additionally, the Employer told the Claimant and the claims deputy that Ms. Runnels was still an employee as of June 16th, the date of the fact-finding interview. We would also note that the Claimant was still experiencing pregnancy-related illness that prevented her from working, and that she had yet not provided the necessary paperwork.

Ms. Runnels didn't receive a medical release until June 25, 2014. Once the Claimant obtained her medical release, she failed to present it to her Employer as well as failed to return to the Employer to offer her services. Her testimony that she contacted the Employer was ambivalent and nebulous, at best. What is clear is that she never presented the medical documentation to the Employer. The Claimant's assumption that she no longer had a job to return to, and therefore no need to submit the documentation, was not reasonable in light the Employer's June 16th fact-finding statement indicating she was still employed with Stonehill. The court in *LaGrange v. Iowa Department Job Service*, June 26, 1984, Iowa Court of Appeals Unpublished Case No. 4-209/83-1081 held that an employee who quits based on his mistaken belief that he will be terminated is deemed a voluntary quit without good cause attributable to the employer when the employer has taken no action to sever his employment. Ms. Runnel's decision not to return occurred *prior* to issuance of the Employer's July 1st letter. Based on this record, we conclude that it was the Claimant who initiated her own separation from employment. See, 871 IAC 24.1(113)"b." See also, 871 IAC 24.22(2)"j"2, which is also consistent with our determination that this was a voluntary quit without good cause attributable to the Employer.

If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

DECISION:

The administrative law judge's decision dated September 22, 2014 is **REVERSED**. The Claimant voluntarily quit her employment without good cause attributable to the Employer. Accordingly, she is denied benefits until such time she has worked in and was paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(1)"g".

Kim D. Schmett

Samuel P. Langholz

DISSENTING OPINION OF ASHLEY R. KOOPMANS:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would affirm the administrative law judge's decision in its entirety.

Ashley R. Koopmans

AMG/fnv