

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

STEPHANIE M AXTELL  
44220 – 230<sup>TH</sup> AVE  
HAVELOCK IA 50546-7507

EMMETSBURG CARE CENTER  
2405 – 21<sup>ST</sup> ST  
EMMETSBURG IA 50536

Appeal Number: 06A-UI-05121-CT  
OC: 04/02/06 R: 01  
Claimant: Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

---

(Administrative Law Judge)

---

(Decision Dated & Mailed)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Stephanie Axtell filed an appeal from a representative's decision dated May 3, 2006, reference 02, which held she was not entitled to benefits because she was on a leave of absence. After due notice was issued, a hearing was held by telephone on May 31, 2006. Ms. Axtell participated personally. The employer participated by Lisa Loring, Administrator.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Axtell began working for Emmetsburg Care Center on January 7, 2005, as a certified nursing assistant (CNA). She worked from 20 to 32 hours each week. She left the employment on or about April 1, 2006, because her doctor

imposed a 20-pound lifting restriction as a result of her pregnancy. Because her job as a CNA required that she be able to lift more than 20 pounds, Ms. Axtell was not allowed to continue working. At that time, it was anticipated that she would not return to work until after the birth of her child. Both parties expected her to return to the employment.

Ms. Axtell returned to the employment on May 8, 2006, prior to the birth of her child. The employer was able to provide her with light-duty work at that point. She is currently working approximately 30 hours each week.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Axtell is entitled to job insurance benefits on her claim filed effective April 2, 2006. She was unemployed at that point because she could not perform all of the functions of her job as a CNA due to restrictions imposed by her doctor as a result of her pregnancy. Although no paperwork was completed for a leave of absence, both parties anticipated that Ms. Axtell would return to work once she was released by her doctor. Therefore, as a practical matter, she was on a leave of absence from Emmetsburg Care Center beginning April 1, 2006. Where an individual is on a leave of absence, she is considered to be voluntarily unemployed and not eligible for benefits during the period of the leave. See 871 IAC 24.22(2)j.

For the reasons stated herein, the administrative law judge concludes that Ms. Axtell was not entitled to job insurance benefits as of the effective date of her claim, April 2, 2006 through May 8, 2006 when she resumed her employment.

#### DECISION:

The representative's decision dated May 3, 2006, reference 02, is hereby affirmed. Ms. Axtell is not entitled to job insurance benefits effective April 2, 2006, because she was on a leave of absence.

cfc/kkf