

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

JANEVA L VARNER
901 HEEFNER ST
HIAWATHA IA 52233

HEARTLAND EXPRESS INC OF IOWA
2777 HEARTLAND DR
CORALVILLE IA 52241

Appeal Number: 04A-UI-08408-HT
OC: 06/27/04 R: 03
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, 4th 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 96.5-1-d – Quit/Medical

STATEMENT OF THE CASE:

The claimant, Janeva Varner, filed an appeal from a decision dated July 27, 2004, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 25, 2004. The claimant participated on her own behalf. The employer, Heartland Express, participated by Human Resources Assistant Lea Kahrs.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Janeva Varner was employed by Heartland Express from March 1 until June 25, 2004. She was a full-time customer service representative.

The claimant's last day of work was June 22, 2004. She was hospitalized for two days due to complications from her pregnancy. On June 25, 2004, Ms. Varner contacted Human Resources Assistant Lea Kahrs to discuss possible long-term disability leave. The claimant's doctor had told her she could not return to work at Heartland Express because her job required her to sit for long periods of time and this would exacerbate her medical problems. No long-term disability benefits were available.

The claimant has not been released to return to her job at Heartland Express as of the date of the hearing. No such release is anticipated until after the birth of her child in January 2005.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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 was advised by her doctor not to return to work and she duly notified the employer of this. However, the provisions of the above Code section provide for disqualification until such time as she has been fully released by her doctor and returned to the employer to offer her services. Only if the employer does not have comparable suitable work available to her at that time would she be qualified to receive benefits. As of the current date, she is disqualified,

DECISION:

The representative's decision of July 27, 2004, reference 01, is affirmed. Janeva Varner is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/kjf