

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEATHER K NOLL
Claimant

APPEAL NO. 12A-UI-04766-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**AVENTURE STAFFING & PROFESSIONAL
SERVICES**
Employer

**OC: 10/03/10
Claimant: Appellant (1)**

Section 96.5-1-j – Separation from Temporary Employer
Section 96.5-1-c – Voluntary Quit for Care of Family Member

STATEMENT OF THE CASE:

Heather Noll (claimant) appealed a representative's April 18, 2012 decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Aventure Staffing & Professional Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 4, 2012. The claimant was represented by Dennis McElwain, Attorney at Law, and participated personally. The employer participated by Kayla Neuhafen, Human Resources Representative.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 28, 2010, as a full-time temporary clerical representative assigned to work at Tyson. She worked until December 30, 2010. The claimant again worked for the employer in the same position from January 31 through February 17, 2011.

The claimant's daughter suffered an injury on or about February 16, 2011. The claimant notified the employer of the condition and the employer agreed to her absence from work. The claimant did not notify the employer that her daughter was sufficiently recovered and the claimant could return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5-1-c 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:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The claimant left work to take care of her daughter who was injured. The claimant's daughter was sufficiently recovered on March 7, 2011, and the claimant has not returned to and offered her services to the employer. The claimant has failed to meet the requirements of the statute and, therefore, is not eligible to receive unemployment insurance benefits.

871 IAC 24.25(40) provides:

(40) Where the claimant voluntarily quit in advance of the announced scheduled layoff, the disqualification period will be from the last day worked to the date of the scheduled layoff. Benefits shall not be denied from the effective date of the scheduled layoff.

The claimant argues that she voluntarily quit in advance of an announced scheduled layoff. There was no evidence presented of an announcement of the day certain for the claimant to stop work and eventually start work again. The facts do not support this finding.

DECISION:

The representative's April 18, 2012 decision (reference 03) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs