

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY R BOOSE
Claimant

APPEAL NO. 11A-UI-04239-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLEN MEMORIAL HOSPITAL
Employer

**OC: 02/27/11
Claimant: Respondent (1)**

Section 96.5-1-D – Recovery from Illness or Injury, No Work Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated March 29, 2011, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on April 27, 2011. Claimant participated. Employer failed to respond to the hearing notice and did not participate

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 November 21, 2010 when she went out on an approved medical leave of absence. When she was released to work with no restrictions she informed the employer, and was told no work was available.

REASONING AND CONCLUSIONS OF LAW:

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 upon recovery from illness or injury, for which she was on an authorized leave of absence, informed the employer of her release to return to work and was told no work was available. That is a non-disqualifying separation from employment.

DECISION:

The decision of the representative dated March 29, 2011, reference 01, is affirmed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/css