

**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**

**HOLLY O'NEAL  
902 – 128<sup>TH</sup> AVE  
KNOXVILLE IA 50138**

**ROBERT HALF CORPORATION  
5720 STONERIDGE DR #3  
PLEASANTON CA 94588-2700**

**Appeal Number: 04A-UI-00992-ET  
OC 12-21-03 R 02  
Claimant: Appellant (2)**

**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, 2<sup>nd</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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1-d – Voluntary Leaving/Illness or Injury  
871 IAC 24.25(35) – Separation Due to Illness or Injury

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a decision dated January 27, 2004, reference 03, that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 19, 2004. The claimant participated in the hearing. Connie Ly, Sales Support Administrator, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having heard the testimony and examined the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time e-mail specialist for Robert Half Corporation from December 9, 2002 to December 15, 2003. She was contracted to that position until December 30, 2003, with a possibility of extension but she left December 15, 2003, because she was pregnant. She was released to return to work February 5, 2004, without restrictions. Upon the full medical release the claimant returned and offered her services, but no work was available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes no work was available to the claimant upon her release to return to work from a non-work related injury.

Iowa Code Section 96.5-1 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.

871 IAC 24.26(6)a provides:

(6) Separation because of illness, injury, or pregnancy.

b. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

The claimant's return to the employer to offer services after the medical recovery evinces an intention to continue working. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed beginning the week ending February 14, 2004, the first week she was able and available for work.

DECISION:

The January 27, 2004, reference 03, decision is reversed. The claimant was laid off due to a lack of work. Benefits are allowed beginning the week ending February 14, 2004, provided the claimant is otherwise eligible.

je/kjf