

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELISA D SMITH
Claimant

APPEAL NO. 08A-UI-09093-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CRESTMoor GOLF CLUB
Employer

**OC: 08/03/08 R: 03
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated October 1, 2008, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 22, 2008. Claimant participated. Employer participated by Suzie Stofferahn, Bookkeeper. Exhibit One was admitted into evidence.

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 April 26, 2008. Claimant asked for a medical leave of absence. Employer granted claimant medical leave. Claimant recovered to the point where she felt capable of returning to work August 3, 2008 and asked for some hours. Employer had no work available effective August 3, 2008.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because no work was available. Since claimant returned to ask for work after recovery and no work was available this is a separation for cause attributable to employer. Benefits allowed.

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.

DECISION:

The decision of the representative dated October 1, 2008, reference 02, is affirmed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible. This decision does not affect the decision in reference number 04 concerning whether claimant is able and available for work.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/css