

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HEIDI M SHULL

Claimant

APPEAL NO. 06A-UI-10504-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A WOMAN'S LIFE INC

Employer

**OC: 09/17/06 R: 03
Claimant: Respondent (4)**

Section 871 IAC 24.1(113)a - Layoffs
Section 96.6(2) – Timeliness of Protests

STATEMENT OF THE CASE:

A Woman's Life, Inc. filed an appeal from a representative's decision dated October 19, 2006, reference 01, which held that the protest to Heidi Shull's claim was not timely filed. After due notice was issued, a hearing was held by telephone on December 5, 2006. Ms. Shull participated personally and Exhibits A and B were admitted on her behalf. The employer participated by Steve Vickrey, Operations Manager.

ISSUE:

At issue in this matter is whether the employer filed a timely protest to the claim and, if so, whether Ms. Shull was separated for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Shull filed a claim for job insurance benefits effective September 17, 2006. Notice of the claim was mailed to the employer on September 20 at 212 West Dale Street, number 301, in Waterloo, Iowa. The employer registered a change of address with the postal service in late August of 2006 and, therefore, the notice of claim had to be forwarded to the employer. The notice of claim was received on October 2 and a protest was filed by fax on October 10, 2006.

Ms. Shull began working for A Woman's Life, Inc. on February 28, 2005 as a full-time medical assistant in the employer's practice. Dr. Jenny Vickrey discontinued her practice effective August 31, 2006 and that was the last day Ms. Shull worked in the office. She agreed to continue working for the employer from her home to assist with the closing of the practice. She was told she could work a total of 320 hours after August 31. On or about September 1, Ms. Shull was advised that the employer could not afford to have her work more than ten hours each week. She did not perform services for the employer after September 7, 2006 because of the reduction in the number of hours she could work each week.

Ms. Shull first became aware of the employer's intent to close the practice in July. Thereafter, she spoke with a Dr. Purim about the possibility of working in her office. Ms. Shull declined the work because it was mostly front office work rather than work dealing primarily with patients. She was also made aware of work with a local veterinarian, Phyllis Frost. Ms. Shull had worked for Dr. Frost previously and had no desire to return to that type of work. The work with Dr. Purim and Dr. Frost was declined prior to August 31, 2006.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the employer's protest should be deemed timely filed within the meaning of Iowa Code section 96.6(2). Because of an address change, there was a delay in the employer's receipt of the notice of Ms. Shull's claim. The employer filed a protest within ten days of receiving the notice of claim on October 2, 2006. Therefore, the protest filed by fax on October 10, 2006 shall be deemed timely filed. As such, the administrative law judge has jurisdiction over the separation issue.

Ms. Shull became separated from employment when the employer closed its practice. Therefore, she became unemployed due to a lack of work. Although she had agreed to work an additional 320 hours after the office closed, the employer would only allow her to work ten hours each week rather than the 40 she had been working. For the above reasons, the administrative law judge concludes that Ms. Shull's separation was for no disqualifying reason. Accordingly, benefits are allowed.

The administrative law judge appreciates that Ms. Shull may have been offered work by other medical practitioners. However, the offers and refusals both occurred in August, prior to when she filed her claim for job insurance benefits effective September 17, 2006. As such, Workforce Development has no jurisdiction over the work refusals. See 871 IAC 24.24(8). The issue of Ms. Shull's severance pay has been addressed by Workforce Development and an appropriate disqualification imposed.

DECISION:

The representative's decision dated October 19, 2006, reference 01, is hereby modified. The employer filed a timely protest to Ms. Shull's claim. She was separated from employment for no disqualifying reason. Benefits are allowed, provided Ms. Shull satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css