

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLEY K FREUND**  
Claimant

**APPEAL NO: 10A-UI-04913-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA CITY COMMUNITY SCHOOL DIST**  
Employer

**OC: 02/28/10**  
**Claimant: Appellant (1)**

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:**

Kelley K. Freund (claimant) appealed a representative's March 26, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Iowa City Community School District (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 13, 2010. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit for a good cause attributable to the employer?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 5, 2008 on a part-time (25 hour per week) basis. As of about August 2009 her position became full time (30 hours per week), working as a para-educator. Her last day of work was February 19, 2010. She turned in her resignation to the employer on February 26. Her reason for leaving was that she was combating severe depression.

The claimant had previously been treated for depression, but the issue became greater in about the fall of 2009. While the claimant had some level of communication with her doctor in the fall of 2009, the doctor had not recommended that the claimant quit her employment. The claimant had discussed her increasing problems with the employer, who was receptive and sympathetic; the employer made some suggestion that the claimant take some time off as a leave of absence, but the claimant determined after discussion with close friends that it would be best that she resign. The employer suggested that the claimant could still reapply for reemployment if she became able to do so in the future.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit, she would not be eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Therefore, where the quit is for medical or health reasons, the quit is disqualifying unless the medical or health issue is attributable to the employer, or unless the claimant's doctor had recommended she quit and she then recovered and sought to return to work. Iowa Code § 96.5-1; 871 IAC 24.25(35); 871 IAC 24.26(6)b.

Here, the claimant's doctor did not recommend that she quit her employment. There was no medical evidence presented that the employment caused or aggravated the claimant's condition. While leaving work under these circumstances was for a good or even compelling personal reason, as the departure from work exceeded ten days, this is still a disqualifying reason for quitting. 871 IAC 24.25(20). Regardless of any sympathy for the claimant's plight, the administrative law judge does not have discretion to rule contrary to the law. Lenning v. Iowa Dept. of Transp., 368 N.W.2d 98 (Iowa 1985). Accordingly, the separation is without good cause attributable to the employer and benefits must be denied.

**DECISION:**

The representative's March 26, 2010 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of February 26, 2010, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs