

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**ZANDOHN KPOR**  
Claimant

**HEARTLAND EMPLOYMENT SERVICES  
LLC**  
Employer

**APPEAL NO. 14A-UI-12467-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/09/14**  
**Claimant: Appellant (5)**

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Iowa Code § 96.5-1 – Voluntary Quit  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated November 25, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 24, 2014. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The Administrative Law Judge asked for and received permission from the Claimant to waive time and include potential questions pertaining to a voluntary quit in this matter as that was the reason given on the Unemployment Insurance Decision issued on November 25, 2014.

**ISSUES:**

Whether claimant quit for good cause attributable to employer.

Whether claimant is able and available for work.

**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 October 28, 2014. Claimant was pregnant at this time. Claimant experienced back pains during her pregnancy. Claimant's back pains made it difficult to do her job as a CNA.

Claimant went to a doctor a few days before October 28. Her doctor set a weight restriction of 10 pounds for claimant to lift throughout the rest of her pregnancy. Claimant took this restriction to work. Employer attempted to convince claimant that she needed to be able to lift at least 20 pounds for her job and wished to get the restriction changed. Claimant's doctor would not increase the restriction to 20 pounds. Employer stated that there was not work for claimant to do with the 10-pound weight restriction.

Said restriction has been in place throughout the rest of claimant's pregnancy. Claimant had her child within the last few days and is currently at home caring for her newborn.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a physician and has not been released as being able to work.

Inasmuch as the pregnancy was non-work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld until such time as the claimant obtains a full medical release to return to work. Claimant is not deemed to have quit work.

**DECISION:**

The decision of the representative dated November 25, 2014, reference 01, is modified with no change in current effect. Claimant has not quit her employment, but is unable to work at this time as she has not received a release that will allow her to work. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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