

**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**

**NANCY A BALL
920 MEADOW LN #4
DES MOINES IA 50315**

**WESLEY RETIREMENT SERVICES INC
5508 NW 88TH ST #120
JOHNSTON IA 50131**

**Appeal Number: 05A-UI-08334-CT
OC: 11/14/04 R: 02
Claimant: Appellant (1)**

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1)d – Separation Due to Illness/Pregnancy
Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Nancy Ball filed an appeal from a representative's decision dated August 4, 2005, reference 05, which denied benefits based on her separation from Wesley Retirement Services, Inc. (Wesley). After due notice was issued, a hearing was held by telephone on August 30, 2005. Ms. Ball participated personally and Exhibit A was admitted on her behalf. The employer did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Ball began working for Wesley on December 15,

2004 as a full-time certified nursing assistant (CNA). She last worked on July 7, 2005. Ms. Ball left the employment because of complications with her pregnancy. Her doctor advised that she not perform any lifting or prolonged standing. She could not perform her normal job as a CNA with the restrictions. The employer did not have other work Ms. Ball could perform within the restrictions. She is welcome to return to Wesley after the birth of her child, which is anticipated to be January 17, 2006. Ms. Ball filed an additional claim for job insurance benefits effective July 17, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Ball was separated from employment for any disqualifying reason. She left the employment on July 7 because she could not perform the functions of her job due to problems with her pregnancy. Given the nature of Ms. Ball's work as a CNA, her doctor's recommendation that she not perform lifting or stand for prolonged periods of time is tantamount to a recommendation that she leave the employment. She gave the employer notice of the need to be off work. An individual who is off work because of pregnancy is not entitled to job insurance benefits until such time as she is released to return to work following the birth of the child, provided the employer does not make suitable work available. Iowa Code section 96.5(1)d; 871 IAC 24.25(35).

For the reasons cited herein, it is concluded that Ms. Ball is not eligible for benefits pursuant to section 96.5(1)d. Because her pregnancy was not a work-related medical condition, her separation was not for good cause attributable to the employer within the meaning of Iowa Code section 96.5(1). Benefits are denied.

DECISION:

The representative's decision dated August 4, 2005, reference 05, is hereby affirmed. Ms. Ball left her employment because of pregnancy but has not been released to return to work. Benefits are denied until such time as she recovers from her condition and re-offers her services to the employer, provided no suitable comparable work is available. Alternatively, benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefits amount, provided she satisfies all other conditions of eligibility.

cfc/kjw