

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANTY J NAMELE
Claimant

APPEAL NO. 08A-UI-06445-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCOTTISH RITE PARK INC
Employer

**OC: 06/08/08 R: 01
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 8, 2008, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 1, 2008. Claimant participated. Employer declined to participate. Exhibit A was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer. The second issue in this matter is 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 June 19, 2008. Claimant was off work and under medical care. Employer sent claimant to a different doctor who released claimant to return to work immediately. Claimant chose to remain off work under her doctor's care. Employer refused to honor claimant's off work restriction and terminate the employment relationship.

Claimant was released to return to work July 31, 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 claimant was unable to return to work as a result of illness or injury. 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.

The administrative law judge holds that the evidence has established that claimant was not able and available for work June 8, 2008 through July 30, 2008. Claimant is able and available for work effective July 31, 2008 as she was released to return to work.

DECISION:

The decision of the representative dated July 8, 2008, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Claimant is able and available for work effective July 31, 2008.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs