

December 20, 2004 until September 12, 2005. She was a full-time certified nursing assistant (CNA).

Ms. Tilford is currently pregnant and her doctor has restricted her to no lifting at all. She is not eligible for FMLA and her regular job duties as a CNA require her to lift patients on a daily basis. The employer considers her eligible for rehire as soon as she is released to return to work by her doctor without restrictions.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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 claimant's work restrictions make it impossible for her to perform her regular work duties. The employer is aware of her medical condition and is willing to rehire her as soon as she is able to return to work. However, that has not yet occurred, and the claimant is therefore disqualified under the provisions of the above Code section.

DECISION:

The representative's decision of September 30, 2005, reference 01, is affirmed. Heather Tilford is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjw