

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NINA C MOSES
Claimant

APPEAL NO. 09A-UI-09513-L

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INC OF DM
Employer

**Original Claim: 05/03/09
Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.5(1) – Voluntary Leaving – Layoff Due to Lack of Work

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 25, 2009, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on July 20, 2009, in Des Moines, Iowa. Claimant participated. Employer participated through Sara Dahm, account manager.

ISSUES:

The issues are whether claimant was laid off due to a lack of work and whether claimant is able to and available for work effective May 3, 2009.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time (8 a.m. to 5 p.m.) temporary administrative assistant at MidAmerican Energy from May 2006 through April 30, 2009, when she was laid off due to a lack of work according to MidAmerican managers. She was initially notified on April 10 and contacted Regan at Manpower the same day and passed along the information via voice mail. She called her again on April 14 and told her she was available for work immediately. On April 30 Regan called to offer a similar job at Wells Fargo. Claimant had registered for summer and fall classes on April 21, 2009 and asked if they would be flexible with the hours to accommodate the class schedule from May 18 through June 26, 2009 from 9 a.m. to noon or 3 p.m. Her availability was limited to full-time second shift or later. That was not possible and there was no further communication by either party. Her classes continue through December 2009, when she graduates. She was not in school when she started the MidAmerican assignment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

Iowa Code § 96.5-1 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.

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".

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

Since claimant limited her availability for work to attend school and failed to maintain communication with employer, she is not disqualified from receiving benefits but is ineligible for benefits due to those limitations effective April 30, 2009.

DECISION:

The June 25, 2009, reference 02, decision is modified in favor of appellant. The claimant did not voluntarily leave her employment but was laid off due to a lack of work and became unavailable for her regular full-time work due to her attendance at school, limitation of hours, and failure to communicate with employer. She is ineligible for benefits but is not required to requalify.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw