

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA A SALAZAR
Claimant

APPEAL NO. 09A-UI-10977-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KELLY SERVICES INC
Employer

OC: 08/17/08
Claimant: Appellant (2)

871 IAC 24.1(113)a - Layoff

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 27, 2009, reference 03, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 17, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Nancy Voelker participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant laid off due to lack of work?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer on short-term assignments at J & A Printing from April 30 to May 11, 2009. The claimant finished each assignment she was given and kept in contact with the employer afterward. She went on interviews for positions arranged through the employer, but did not receive any job offers.

On June 10, 2009, the claimant was scheduled to start a one or two-day assignment at J & A Printer. The claimant was unable to work due to a medical appointment. She failed to call in at the start of her shift. When she called her supervisor later that day, she was warned about calling in late. The claimant then requested more hours. The supervisor said she would see what they could do, but could not guarantee her any particular number of hours. The claimant continued to call afterward and never quit her job. The employer never discharged the claimant.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected

misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The claimant never voluntarily quit her job and was not discharged. She completed all scheduled work assignments except for the assignment on June 10. She failed to report for that one scheduled temporary assignment because of a doctor's appointment, but she did not quit her employment nor was she discharged. The claimant continued checking for work with the employer and the employer even sent her out on some interview, but no further work was available. The separation should be treated as a layoff due to lack of work at the time she filed for unemployment insurance benefit. 871 IAC 24.1(113)a.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated August 27, 2009, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css