

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACEY R HARMON
Claimant

APPEAL NO. 08A-UI-02273-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**LA LEASING
SEDONA STAFFING**
Employer

OC: 01/13/08 R: 03
Claimant: Respondent (1-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Sedona Staffing, filed an appeal from a decision dated February 28, 2008, reference 02. The decision allowed benefits to the claimant, Tracey Harmon. After due notice was issued a hearing was held by telephone conference call on March 24, 2008. The claimant participated on her own behalf and with a witness Virginia Weatherspoon. The employer participated by Unemployment Benefits Administrator Colleen McGuinty and Account Coordinator Anna Nielsen. Exhibits One and Two were admitted into the record.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Tracey Harmon was employed by Sedona Staffing from September 11 until December 28, 2007. She was assigned to Metokote until she was injured on the job October 24, 2007. She was seen by the occupational health clinic and at her final appointment on December 14, 2007, she was released for light duty until December 14, with return to full, unrestricted duty effective December 28, 2007.

Ms. Harmon brought a copy of the release order to Sedona Staffing where it was received by Account Coordinator Anne Nielsen. She was then assigned to light duty at the local food bank and then at the Salvation Army.

The employer considered her light-duty assignment at Salvation Army to end effective December 28, 2007, because that is the date on which her doctor released her to return to full duty. However, the employer's representative does not appear to have made it clear to Ms. Harmon the assignment was to end on that date, but left it up to her to intuit this from the doctor's order dated December 14, 2007.

The claimant did not contact the employer until January 7, 2008, when she called Ms. Nielson to inquire why there was no timecard for her at the Salvation Army. She was told the assignment

ended December 28, 2007, and she had not contacted Sedona Staffing for another assignment with three days as required. She was told more work would be available to her when she brought in documentation from her physician, but this had already been done.

The claimant stated she thought she was still on light duty because her hands still hurt. She is also currently out of state for family business, and it is not clear whether she is able and available for work under these circumstances.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-j 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:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

It does not appear the claimant knew her assignment at Salvation Army would automatically end December 28, 2007, because the employer did not tell her this. Sedona Staffing assumed she would understand the assignment would end that day because that is the day her doctor released her to return to work without restrictions. However, the employer's testimony was somewhat inconsistent as Ms. Nielson originally testified the employer was waiting for the claimant to personally bring in a copy of the doctor's release order, even though they had a

copy faxed to them by the doctor's office, and she would be returned to work when that was done. However, the witness later acknowledged Ms. Harmon had already done that as the yellow employer's copy was in the file.

The claimant's understanding of the employer's expectations in this case was imperfect at best. She seemed to feel that since her hand still hurt she was to continue on the light duty. The employer's lack of direct, clear and personal communication with the claimant fostered this impression. Her failure to contact the employer within three working days of December 28, 2007, was because she believed she was still at the assignment at the Salvation Army and therefore it cannot be considered a willful failure to contact the employer for another assignment. This is not a voluntary quit and disqualification may not be imposed.

The issue of whether the claimant is able and available for work because of her on-going medical problems with her hands, and being of out state for some unknown period of time should be remanded to the Claims Section.

DECISION:

The representative's decision of February 28, 2008, reference 02, is affirmed. Tracey Harmon is qualified for benefits provided she is otherwise eligible.

The issue of whether the claimant is able and available for work is remanded to the Claims Section for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css