

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALYSSA M IRVING**  
Claimant

**APPEAL NO. 12A-UI-12686-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEDONA GROUP**  
Employer

**OC: 09/25/11  
Claimant: Appellant (4-R)**

Section 96.5-1 - Voluntary Quit  
Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 10, 2012, reference 03, that concluded she was not able to and available for work. A telephone hearing was held on November 26, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Colleen McGuinty participated in the hearing on behalf of the employer with a witness, Crystal Blankenfeldt. The parties agreed that any issues involving the claimant's separation from work could be determined in this proceeding. Exhibit A was admitted into evidence at the hearing.

**ISSUES:**

Did the claimant voluntarily quit employment without good cause attributable to the employer?  
Was the claimant discharged for work-connected misconduct?  
Was the claimant able to, available for, and actively seeking work?

**FINDINGS OF FACT:**

The claimant filed a claim for unemployment insurance benefits effective September 25, 2011, after her employment with Scott County Family YMCA ended.

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, she was given a statement to read and sign that said she would be considered to have voluntarily quit employment if she did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant worked for the employer on a full-time assignment as a secretary at the Center for Youth and Family Services in Illinois from April 9, 2012, to July 18, 2012.

At the end of the workday on July 18, 2012, a representative of Sedona informed the claimant that she was being removed from the assignment. Shortly before that time the claimant had informed a manager with Center for Youth and Family Services that she might need to start

taking time off once a week for short doctor's appointments relating to her pregnancy and would need six weeks off after she had her baby in September. She told the manager she would try to schedule appointments early or late in the day so that she would not miss much work. Her due date was September 20. When she was informed that the assignment was ending by the Sedona representative, she was informed that Center for Youth and Family Services needed someone who could be there all the time. The claimant told the Sedona representative that she would find another job on her own because she did not want to have the same problem with another assignment. The claimant did not file weekly claims for benefits after July 18.

The claimant reopened her claim for unemployment insurance benefits effective September 9, 2012, because someone told her that her removal from the assignment was pregnancy discrimination. She did not, however, file any weekly claims for unemployment insurance benefits at that time either. The claimant has not presented evidence that she was actively looking for work by contacting two employers every week.

The claimant went into labor and went to the hospital on September 18 and had her baby on September 19. She was released from the hospital on September 21. She has presented evidence from her certified nurse manager that she was able to and available for work from July 17 to September 17, 2012. She was released to return to work without restrictions by her certified nurse manager on October 15, 2012.

The claimant filed a claim for a second benefit year effective September 23, 2012. She has filed weekly claims for benefits for the week ending September 29 and every week since.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer in either benefit year.

#### **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.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

In this case, the claimant was not allowed to complete the work assignment and was actually informed that she was being removed from the assignment because Center for Youth and Family Services needed someone who could be there all the time. Under the circumstances, the separation from work should be considered a discharge and no disqualification under Iowa Code § 96.5-1-j is proper. The reason for her discharge was not for work-connected misconduct as defined by 871 IAC 24.32(1) because it was due to the client's business' concern about her missing too much work.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3.

While the claimant was physically able to work from July 17 to September 17, 2012, based on the evidence, she was not actively looking for work by making two job contacts every week. She also did not file any weekly claims for benefits during those weeks as required by 871 IAC 24.2(1)g. It was not until she was released to return to work by her medical professional on October 15 that she met all the requirements of being able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law. The claimant is denied benefits through the week ending October 13. Starting with the week of October 14, 2012, the claimant is qualified for benefits.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer in either benefit year. If the employer becomes a base period employer in a future benefit year, charges will be determined by the state of Illinois.

The Agency records show the claimant is still disqualified base on her separation from Scott County Family YMCA. The claimant's work for the employer was in Illinois, and the claimant was paid \$3,974.00 in wages while she worked for the employer, which were reported to Illinois as confirmed by the employer and the interstate wage inquiry screen. Since the claimant's weekly benefit amount on her 2011 claim was \$272.00 and on her 2012 claim was \$290.00, the disqualification based on her separation from Scott County Family YMCA should be lifted. A remand for that purpose is required.

**DECISION:**

The unemployment insurance decision dated October 10, 2012, reference 03, is modified in favor of the claimant. The claimant is qualified to receive unemployment insurance benefits based on her separation from the employer. The claimant is denied benefits through the week ending October 13 based on her not being available, not actively seeking work, and not filing weekly claims. Starting with the week of October 14, 2012, the claimant is qualified for benefits because she was able to work, available for work, actively seeking work, and filing a weekly claim as of that date. The matter of removing the discharge disqualification based on her separation from Scott County Family YMCA is remanded to the Agency as she has shown wages of over 10 times her weekly benefit amount through her employment with Sedona in Illinois.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/tll