

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCIA R CHRISTENSEN-LEWIS
Claimant

APPEAL NO. 10A-UI-02671-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARIZONA LABOR FORCE INC
Employer

OC: 12/27/09
Claimant: Appellant (1)

Section 96.5(1)j – Quit/Temporary
Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Marcia Christensen-Lewis, filed an appeal from a decision dated February 16, 2010, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 1, 2010. The claimant participated on her own behalf.

The employer, Arizona Labor Force (ALF), did not provide a telephone number where a witness could be contacted and did not participate. One day prior to the hearing the Vice President/General Manager Judy Poarch, faxed documents to the Appeals Section for use in the hearing as the employer would not be participating via a witness. The cover letter was admitted as Exhibit One and read into the record. The remaining documents could not be admitted as the employer did not submit them to the Appeals Section in enough time for them to be sent to the claimant prior to the hearing.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer and whether she is able and available for work.

FINDINGS OF FACT:

Marcia Christensen-Lewis began employment with ALF in December 2008. All workers are required to come to the office each morning and sign in to request work. The last day she worked for ALF was December 14, 2009. She was not able to return to that job because she lacked transportation home as the shift ended at 10:30 p.m. Ms. Christensen-Lewis does not have a vehicle or a driver's license and depended on her mother to take her to work, but her mother was not able to provide her with a ride late at night. She would not have been returned to her assignment in any event because the client company was not satisfied with her work performance, but other work was available from other clients.

The claimant did not return to the ALF office to request more work on December 15, 16 and 17, 2009. On December 18, 2009, she did come to the office in the afternoon after all assignments

had been issued for the day. She filled out a new application for employment but has not reported to the office since that day due to lack of transportation.

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.

The claimant finished her last one-day assignment and no further work was available to her there because the client had not requested her to return. She therefore completed the assignment as agreed. But she did not come into the ALF office within three working days to request more work as required. When she did return she had to re-apply but then never returned again after that. This is a voluntary quit without good cause attributable to the employer and the claimant is disqualified.

Iowa Code section 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".

871 IAC 24.23(4) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. (See subrule 24.24(7)).

The claimant is not able and available in the labor market because she lacks transportation. She has neither a vehicle nor a driver's license. She cannot accept any work which cannot be reached by bus line or by walking.

DECISION:

The representative's decision of February 16, 2010, reference 02, is affirmed. Marcia Christensen-Lewis is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css