

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY L MILLER

Claimant

APPEAL NO. 14A-UI-04349-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC

Employer

OC: 03/23/14

Claimant: Appellant (4)

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 April 17, 2014, reference 04, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 14, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Crystal Stone participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the employer is not a base-period employer on the claim, and the claim is based primarily on her full-time employment. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUES:

Did the claimant voluntarily quit part-time employment without good cause attributable to the employer?

Was the claimant able to and available for work for the week ending February 8, 2014?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant started working part-time temporary assignments for the employer in November 2013.

Her last assignment was with JM Swank where she worked part time (20 hour per week) as an administrative assistant. She worked on that assignment from January 13 to January 31. She was absent from work on February 3, 4, and 5 because she had fallen and hurt her back and the job at JM Swank involved some physical labor. She decided not to return to work because she thought she had missed too much work and she hoped she would be selected for another position she had applied for. Continuing part-time work was available when she quit.

The claimant filed a claim for unemployment insurance benefits with an effective date of March 24, 2013. The employer was not a base-period employer on the claim. The claimant did not file an additional claim for benefits after she stopped working for the employer at JM Swank. She filed a claim for a second benefit year during the week of March 23, 2014. The employer was not a base-period employer on this claim either.

The claimant has a degree in human resource management. Her primary job was working full time for University of Iowa as a medical clerk. The job involved data entry and was a sit-down job. She also worked full time for Sedgwick Claim management. The job involved Family and Medical Leave Act (FMLA) administrative and was likewise a sit-down job. The claimant could have performed both jobs with her back problems. She has been looking for jobs in the human resources area and was able to perform the work during the week ending February 8, 2014.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer, which is grounds for disqualification under Iowa Code § 96.5-1.

871 IAC 24.27 provides that a claimant who voluntarily quits part-time employment without good cause and has not requalified for benefits, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. Instead, the benefits payments will be made based on the wages from the other employers, and the part-time employer's account will not be charged for benefits paid.

The claimant voluntarily quit employment without good cause attributable to the employer. She decided not to go back to her job because she thought she had missed too much work. The job, however, was part time, and the claimant has sufficient wages from other employers to qualify to receive unemployment insurance benefits. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant.

The 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. The unemployment insurance rules provide that a person must be physically able to work, not necessarily in the individual's customary occupation, but in some reasonably suitable, comparable, gainful, full-time endeavor that is generally available in the labor market. 871 IAC 24.22(1)b. The evidence establishes that the claimant was able to perform gainful work, just not work that requires lifting. There is work available in the labor market meeting such restrictions that the claimant is qualified to perform, and the claimant has been actively looking for such work in compliance with the requirements of the law.

DECISION:

The unemployment insurance decision dated April 17, 2014, reference 04, is modified in the claimant's favor. The claimant voluntarily quit part-time employment without good cause attributable to the employer, but she is still qualified. She was able to and available for work during the week ending February 8, 2014.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs