

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CORINNA S HOPKINS
Claimant

APPEAL NO. 06A-UI-11306-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PALMER COMPANIES INC
PALMER STAFFING
Employer

OC: 10/9/06 R: 02
Claimant: Appellant (1)

Section 96.5(1)(d) – Voluntary Quit

STATEMENT OF THE CASE:

Corinna Hopkins filed a timely appeal from the November 20, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on December 11, 2006. Ms. Hopkins participated. Senior Staffing Consultant Laurie Wellendorf represented the employer.

ISSUE:

Whether the claimant voluntarily quit her assignment for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Corinna Hopkins was employed by Palmer Staffing temporary employment agency from September 23, 2005 until September 8, 2006, when she voluntarily separated from her assignment upon the advice of her doctor due to her pregnancy. Ms. Hopkins' only assignment with Palmer Staffing was a full-time assignment at Policy Studies, Inc., where she performed clerical duties. Ms. Hopkins' immediate supervisor at Policy Studies was Bob Slate. At the time Ms. Hopkins left the assignment, she had no agreement with Mr. Slate, Policy Studies, or Palmer Staffing with regard to returning to the same assignment at Policy Studies. On the contrary, prior to separating from the assignment at Policy Studies, Ms. Hopkins trained the person she understood would be her replacement in the assignment. Mr. Slate advised Ms. Hopkins that he anticipated needing temporary workers at the end of October and suggested that Ms. Hopkins contact him when she was again available to work to see whether he had any work assignments available. Prior to separating from the assignment, Ms. Hopkins advised her supervisor at Palmer Staffing, Senior Staffing Consultant Laurie Wellendorf, that she would be leaving due to her pregnancy and planned to take time away from working after the birth of her child. Ms. Hopkins was unhappy with Palmer Staffing at the time she voluntarily separated from the employment to complete her pregnancy and give birth. Ms. Hopkins had decided that Palmer Staffing was a hostile work environment after the temporary employment agency refused to provide maternity leave benefits because Ms. Hopkins had not worked for the agency

long enough to qualify under its established maternity leave policy. Ms. Wellendorf asked Ms. Hopkins to notify the temporary employment agency when she was again available for work assignments.

On September 12, Ms. Hopkins was admitted to the hospital. Ms. Hopkins gave birth on September 13. Thereafter, Ms. Hopkins stayed home with her baby for several weeks. On October 26, Ms. Hopkins' doctor released her to return to work. On October 30, Ms. Hopkins telephoned Mr. Slate at Policy Studies to indicate that she was available to work at Policies Studies. Mr. Slate advised Ms. Hopkins that he had no work available for Ms. Hopkins and that she should check back in late December or early January. Ms. Hopkins decided not to make contact with Palmer Staffing about her availability for work because of her conclusion that the staffing agency presented a hostile work environment.

Ms. Hopkins had signed an agreement with Palmer Staffing that limited her contact with Policy Studies to that authorized and facilitated by Palmer Staffing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-d 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

871 IAC 24.25(35) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

(a) Obtain the advice of a licensed and practicing physician;

(b) Obtain certification of release for work from a licensed and practicing physician;

(c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or

(d) Fully recover so that the claimant could perform all of the duties of the job.

The evidence indicates that Ms. Hopkins voluntarily separated from the employment due to her pregnancy and upon the advice of her physician. The evidence indicates that Ms. Hopkins' physician released her to return to work on October 26, 2006. The evidence indicates that Ms. Hopkins failed return to her employer, Palmer Staffing, to offer services upon being released by her doctor to return to work. The evidence indicates that Ms. Hopkins understood at all relevant times that Palmer Staffing, not Policy Studies, was her employer and the entity she needed to contact regarding returning to work. The evidence fails to indicate intolerable and/or detrimental working conditions that would have prompted a reasonable person to quit the employment at Palmer Staffing.

Based on the evidence in the record, the administrative law judge concludes that Ms. Hopkins voluntary separation from the employment was without good cause attributable to the employer and Ms. Hopkins is ineligible for benefits. To be eligible for benefits, Ms. Hopkins must return to Palmer Staffing and offer to perform services. If at that time, Palmer Staffing has no suitable work available for Ms. Hopkins, Ms. Hopkins would be eligible for benefits. Otherwise, Ms. Hopkins is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

DECISION:

The Agency representative's November 20, 2006, reference 01, decision is affirmed. The claimant voluntarily separated due to pregnancy. The separation was without good cause attributable to the employer. The claimant is not eligible for benefits. To be eligible for benefits, the claimant must return to Palmer Staffing and offer to perform services. If at that time, Palmer Staffing has no suitable work available for claimant, the claimant would be eligible for benefits. Otherwise, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/css