IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

ALLA A LUNINA
Claimant

MANPOWER INC OF DES MOINES
Employer

APPEAL NO. 13A-UI-03406-SWT

ADMINISTRATIVE LAW JUDGE DECISION

OC: 02/17/13
Claimant: Appellant (1)

Section 96.5-1-j - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 13, 2013, reference 01, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 7, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of a Russian Interpreter, Olga Sparks. No one participated in the hearing on behalf of the employer.

ISSUE:

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

FINDINGS OF FACT:

The claimant worked full time as an engineering assistant for Compressor Controls Corporation (CCC) for 15 years. Her employment ended February 17, 2012, when she was laid off in a reorganization of the company. When her employment ended, her rate of pay was $18.32 per hour plus health, dental, vision, life insurance, and retirement benefits.

The employer, Manpower Inc., is a staffing company that provides workers to client businesses on a temporary or indefinite basis. On March 17, 2013, the claimant started a job working for Manpower, Inc. as her employer on an assignment as a translator for her previous employer, CCC. Prior to starting the job, the claimant signed a contract to work three months at a rate of pay of $18.32 per hour with no benefits. At that time, she was given a statement to read and sign notifying her that if she did not contact Manpower, Inc. within three working days after the completion of a job assignment and request a new assignment, she would be considered to have voluntarily quit employment. She was given the statement and she signed it along with the three-month contract and other employment paperwork. She received a copy of the statement but made the mistake of not reading it.

After she started working, she was given a completely different set of duties than for a translator. She was assigned work obtaining and working on certificates for CCC products. She knew from experience working for CCC for 15 years that what she doing was a higher-level job than a translator position; the certification job was performed by managers and engineer at

approximately twice rate of pay of what she was being paid. The claimant decided that it would honor the contract by working the three months and prove herself to CCC and could obtain a higher salary that fit the job she was performing.

In early June 2013, the claimant met with a manager and vice president at CCC and requested that her rate of pay be increased to be in line with the duties of her job. They denied her raise request and told her that if she continued to work there it would be at $10.32 per hour.

After the meeting with CCC officials denying her a raise, the claimant sent an email to Felica Van Blaricon, the Manpower staffing manager, asking when her last day of work at CCC would be. Van Blaricon replied to the email informing her that her last day would be June 19. The email did not inform the claimant that she should seek another assignment with Manpower.

The claimant completed her assignment by working until June 19, 2012. She did not contact Manpower to seek another assignment until September 2012. She did not contact Manpower within three working days because she did not read the statement that she signed when she was hired and no one explained the requirements to her.

A hearing was originally scheduled for April 23, 2013. Both the claimant and Felicia Van Blaricon were present at the hearing. The hearing was rescheduled to May 7, 2013, at 2:00 p.m. with the consent of the claimant and Van Blaricon. Proper notice of the hearing was given to the parties. Van Blaricon was not available for the hearing when she was called at the scheduled time of the hearing. She called on May 8 and stated she had not received notice of the hearing.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether good cause exists to reopen the hearing. The unemployment insurance rules provide that when a party who has received due notice is unable to attend a hearing or request postponement within the prescribed time due to emergency or other good cause, the presiding officer may, if no decision has been issued, reopen the record and schedule another hearing. 871 IAC 26.8(3). No good cause has been shown to reopen the hearing. Van Blaricon agreed to the rescheduled day and time of the hearing, and proper notice was sent to the employer.

The next is whether the claimant voluntarily quit employment without good cause attributable to the employer.

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1 and 96.5-2-a. The rules provide that a claimant has not voluntarily quit employment if the claimant was hired for a specific period of time and completed the contract of hire by working until that time has lapsed. 871 IAC 24.26(22).

As an exception to this rule, however, 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.

The claimant admitted that she had signed and received a copy of the statement required by Iowa Code § 96.5-1-j. She admitted she had made a mistake in not reading the statement and

did not realize that she needed to contact Manpower within three days to seek another assignment. As a result, unless she had some other good cause for leaving employment with Manpower, she would be subject to disqualification.

The claimant asserts that the employer substantially changed the contract of hire by changing the type of work required of her. The unemployment insurance rules provide that a claimant who leaves employment due to a drastic modification in the type of work is considered to have good cause to quit. 871 IAC 24.26(1). In addition, the rules provide that a claimant who leaves work because the type of work was misrepresented to the claimant at the time she accepted the assignment has quit with good cause attributable to the employer. 871 IAC 24.26(23).

There are two problems with the claimant's argument. First, the claimant worked the whole three months and did not raise any objection to the pay or work duties until she met with the CCC manager and vice president about two weeks before the contract was to end. In *Olson v. Employment Appeal Board*, 460 NW 2d 865 (Iowa 1990), the Iowa Code of Appeals ruled that the claimant who quit seven months after a change in his position and reduction in his pay had accepted the change. *Olson*, 460 NW 2d at 868. This precedent applies in this case because the claimant did not raise the issue when she first recognized the problem with her job duties and pay. Second, Manpower, Inc. was the claimant's employer and if the claimant had any concerns about her pay and job duties, the issues should have been raised with Manpower, Inc.

The claimant voluntarily quit employment without good cause attributable to the employer under Iowa Code § 96.5-1-j.

DECISION:

The unemployment insurance decision dated March 13, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise
Administrative Law Judge

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Decision Dated and Mailed

saw/css