

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACEY E FARLIN
Claimant

APPEAL NO. 07A-UI-01247-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

OC: 12/24/06 R: 01
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 - Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer, Manpower International Inc. (Manpower) appealed an unemployment insurance decision dated January 22, 2007, reference 01, that concluded claimant was eligible for benefits because her separation from temporary employment was not under disqualifying conditions. A telephone hearing was held on February 20, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Todd Aschenfelter participated in the hearing on behalf of Manpower. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim,. If a party objects to taking official notice of these records, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 25, 2005. She reopened her claim after she was laid off from her job with Intier Automotive Seating in April 2006.

Manpower is a staffing service that provides workers to client businesses on a temporary or indefinite basis. During the week ending May 13, 2006, the claimant worked on an assignment for Manpower at NSK Corporation. She was working eight hours per day and she was to work five days per week. The job was an ongoing assignment and had no definite date on which the job was to end.

On May 12, 2006, the claimant called and informed Manpower that she would not be returning to work at NSK Corporation because she had another job. She voluntarily quit employment because her work shift was not working with her family situation. She did not have any job working in an employer-employee relationship at that time. She quit to care for her children and to baby-sit for two other children in a self-employment arrangement.

The claimant filed a claim for benefits for the week ending May 13, 2006, and reported the \$150.00 in wages she had been paid during that week.

The claimant filed a claim for unemployment insurance benefits for a second benefit year with an effective date of December 24, 2006. The claimant had not worked in an employer-employee relationship since she left her employment with Manpower in May 2006.

The claimant filed for and received a total of \$578.00 in unemployment insurance benefits for the weeks between December 24, 2006, and January 6, 2007.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides for a disqualification for claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code section 96.5-1.

Iowa Code section 96.5-1-a states that a claimant shall not be disqualified if she left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. The unemployment insurance rules state that "the [other] employment does not have to be covered employment and does not include self-employment." 871 IAC 24.28(5). The rules also state that a claimant who leaves employment to enter self-employment is presumed to quit employment without good cause attributable to the employer. 871 IAC 24.25(19).

The claimant, therefore, quit her employment on May 12, 2006, without good cause attributable to the employer. She quit for personal reasons relating to her family situation and to baby-sit for two children while caring for her children. This would be considered self-employment and would not provide good cause to leave employment under the unemployment insurance law.

The claimant argues that she was not drawing against the employment at NSK Corporation. Actually, her claim is based in part on the \$150.00 in wages she received from Manpower while she worked at NSK Corporation, but that is not the determining factor here. The claimant misunderstands the nature of an unemployment insurance disqualification, which does not depend on what employment the claim is based on. When a person files for unemployment insurance benefits, each separation from employment must be evaluated to determine if the claimant is qualified to receive benefits. That is because an unemployment insurance disqualification continues until the person has requalified by working and earning wages for insured work equal to ten times her weekly benefit amount in subsequent employment. When the claimant filed for benefits effective December 24, 2006, her last employer was Manpower and she had not worked since May 12, 2006.

The claimant is disqualified from receiving unemployment insurance benefits effective December 24, 2006. The employer's account is relieved from charges based on the \$150.00 in wages paid to the claimant during the week ending May 13, 2006. She was overpaid the \$578.00 in unemployment insurance benefits she received for the weeks between December 24, 2006, and January 6, 2007. No further disqualification or overpayment for the reasons set forth below.

The Agency's records were reviewed because the claimant had asserted during the hearing that she had reported her separation from employment in May 2006, and the matter had been resolved then. This was necessary because if the Agency had issued a decision regarding this separation from employment and properly mailed the decision to both sides, it would be binding

in this case. After reviewing the Agency's records, I have concluded no such adjudication was issued.

The records show the following. The claimant filed for unemployment insurance benefits effective December 25, 2005. The records show on her weekly claim for the week ending May 13, 2006, the claimant reported that she had worked and earned wages of \$150.00 and had quit a job. A notice of claim was issued to Manpower at an address, 815 W. Thomas, Shenandoah, Iowa, but there is no record the claim was protested. The claimant was notified about an interview regarding whether she quit a job or was fired from a job to be held on June 1, 2006. The person conducting the interview quoted the claimant as stating, "I didn't quit a job the week ending 05/13/06." On June 2, 2006, a decision was issued to the claimant but not to Manpower stating "Our records indicate your availability for work has been questioned. You are available for work." There was no decision issued regarding her separation from employment with Manpower.

Since this information was not provided to the parties in advance of the hearing, my decision does not consider this information and the decision only disqualifies the claimant effective December 24, 2006. The issue of whether the claimant is disqualified effective May 12, 2006, is remanded to the Agency for investigation and adjudication.

DECISION:

The unemployment insurance decision dated January 22, 2007, reference 01, is reversed. The claimant voluntarily quit employment without good cause attributable to the employer. The claimant is disqualified from receiving unemployment insurance benefits effective December 24, 2006, and continuing until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$578.00 in unemployment insurance benefits, which must be repaid. The issue of whether the claimant is disqualified effective May 12, 2006, is remanded to the Agency for investigation and adjudication.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs