

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATILDE SANDOVAL
Claimant

APPEAL NO. 11A-UI-10001-S

**ADMINISTRATIVE LAW JUDGE
DECISION**

SPHERION STAFFING LLC
Employer

**OC: 06/19/11
Claimant: Appellant (4)**

Section 96.4-3 – Able and Available
871 IAC 24.1(113)a – Temporary Lay-off

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated July 26, 2011, reference 01, that held she voluntarily quit without good cause on June 23, 2011, and benefits are denied. A hearing was held in Des Moines, Iowa on September 12, 2011. The claimant, and Interpreter, Patricia Berploeg, participated. Teresa Ray, Manager, participated for the employer. Employer Exhibits One was received as evidence.

ISSUES:

Whether claimant was temporarily laid-off from work.

Whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The claimant began work on a long-term assignment for the employer at Hewlett-Packard on May 17, 2011. She asked for a leave of absence to visit her son's graduation in Mexico. She submitted a form to the employer requesting to be off work from July 4 to July 17, 2011. The employer approved the request.

Prior to her leave, the employer notified claimant of a lay-off after she finished work on Thursday, June 23. When claimant returned from Mexico on July 17, she contacted the employer about further work, but none was available. The employer did place claimant on assignment on August 8, and she continues to work for the employer.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The administrative law judge concludes the claimant was laid-off for lack of work on June 23, 2011 that is an employment separation for no disqualifiable reason. Benefits are allowed, provided claimant is otherwise eligible.

The administrative law judge further concludes the claimant was not able and available for work for the period from July 4 to July 17, because she was in Mexico.

The administrative law judge further concludes the claimant removed the availability disqualification when she returned from Mexico and contacted the employer for further work. Claimant became eligible for the workweek beginning July 17, 2011. The claimant is eligible for benefits from July 17 thru August 6, 2011 when the lay-off ended upon her August 8 re-employment.

DECISION:

The department decision dated July 26, 2011, reference 01, is modified. The claimant was on a temporary lay-off from June 23 to July 4, 2011 and from July 17 thru August 6, 2011. She is entitled to benefits during these periods, provided she is otherwise eligible. The claimant was not eligible for benefits while in Mexico for the period from July 4 to July 17, because she was not able and available for work. She became ineligible for benefits on August 8, 2011 when she returned to employment.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs