

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SILVIA M POSADA
Claimant

APPEAL NO. 12A-UI-05533-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANNA ENTERPRISES
STAFFING SOLUTIONS**
Employer

**OC: 12/25/11
Claimant: Respondent (4)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
871 IAC 24.1(113)a – Separations
Iowa Code § 96.5(1)a – Voluntary Leaving – Other Employment

STATEMENT OF THE CASE:

The employer filed an appeal from the May 3, 2012 (reference 02) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on June 5, 2012. Claimant participated through Noe Murillo, interpreter. Employer participated through Manager William Van Sloan.

ISSUES:

Was the claimant laid off due to a lack of work?

Did she voluntarily leave the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed in a temporary assignment at United Brick and Tile and was separated from employment on December 22, 2011, when the assignment ended due to lack of work. She checked in for other work within three working days on December 27, 2011. None was available. She quit on March 14, 2012 to go to work directly for United Brick and Tile.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

Iowa Code section 96.5-1-a 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:

a. The individual 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. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

871 IAC 23.43(5) provides:

(5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

Even though the separation was without good cause attributable to the employer and would, standing alone, disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment and remains in the new employment. Accordingly, benefits are allowed for the period from December 27, 2011 through March 10, 2012, and the account of the employer shall not be charged for any benefits claimed after March 10, 2012.

DECISION:

The May 3, 2012 (reference 02) decision is modified in favor of the appellant. The claimant was laid off due to a lack of work and later voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 330162) shall not be charged for any benefits paid after March 10, 2012.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw