

7-2-2009

Simpson v. Trinity Mission Health & Rehab Clerk's Record v. 1 Dckt. 36144

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36144

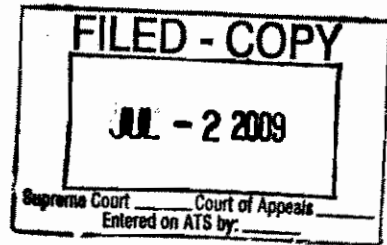
Vol. 1 of 1

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
 Claimant/Appellant,)
)
 vs.)
)
 TRINITY MISSION HEALTH & REHAB)
 OF MIDLAND L.P.,)
 Employer/Respondent,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR,)
 Respondent.)

SUPREME COURT NO. 36144

AGENCY'S RECORD



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

For Claimant/Appellant
 Svitlana Simpson, Pro Se
 1827 N. Eagleview St.
 Nampa ID 83651

LAW CLERK

For Respondent
 Tracey Rolfsen
 Deputy Attorney General
 Idaho Department of Labor
 317 W. Main St.
 Boise ID 83735

36144

 COPY

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
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 Claimant/Appellant,)
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 TRINITY MISSION HEALTH & REHAB)
 OF MIDLAND L.P.,)
 Employer/Respondent,)
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 IDAHO DEPARTMENT OF LABOR,)
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BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

For Claimant/Appellant

Svitlana Simpson, Pro Se
1827 N. Eagleview St.
Nampa ID 83651

For Respondent

Tracey Rolfsen
Deputy Attorney General
Idaho Department of Labor
317 W. Main St.
Boise ID 83735

 COPY

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LIST OF EXHIBITS

Hearing Transcript taken on December 3, 2008, will be lodged with the Supreme Court:

Exhibits admitted into record before Idaho Department of Labor

- | | | |
|----|---|---------|
| 1. | Notice of Telephone Hearing, mailed December 8, 2008 | 3 pages |
| 2. | Important Information about your Hearing Read Carefully | 2 pages |
| 3. | Thomas & Thorngren, Inc. faxed policy and procedures | 3 pages |
| 4. | Eligibility Determination Unemployment Insurance Claim | 2 pages |
| 5. | Request for Appeals Hearing | 4 pages |
| 6. | Employers Data | 1 page |

IDAHO DEPARTMENT OF LABOR
APPEALS BUREAU
317 WEST MAIN STREET
BOISE, IDAHO 83735-0720
(208) 332-3572 / (800) 621-4938
FAX: (208) 334-6440

COPIY

SVITLANA Y SIMPSON,)
SSN: [REDACTED])
Claimant)
vs.)
TRINITY MISSION HEALTH & REHAB)
OF MIDLAND LP,)
Employer)
and)
IDAHO DEPARTMENT OF LABOR.)

DOCKET NUMBER 0480-2009

DECISION OF APPEALS EXAMINER

DECISION

Benefits are **DENIED** effective September 28, 2008. The claimant quit the job without good cause in connection with the employment as defined by § 72-1366(5) of the Idaho Employment Security Law.

The employer's account is **NOT CHARGEABLE** for experience rating purposes, in accordance with § 72-1351(2)(a) of the Idaho Employment Security Law.

The Eligibility Determination dated October 20, 2008, is hereby **MODIFIED** as to the reason for separation of employment and **REVERSED** as to eligibility.

HISTORY OF THE CASE

The above-entitled matter was heard by Gregory Stevens, Appeals Examiner for the Idaho Department of Labor, on December 3, 2008, by telephone in the City of Boise, in accordance with § 72-1368(6) of the Idaho Employment Security Law.

The claimant, Svitland Y. Simpson, did not appear for the hearing.

The employer, Trinity Mission Health & Rehab of Midland LP, was represented by Mark Cenis, who provided testimony.

Exhibits #1 through #6 were entered into and made a part of the record.

ISSUES

The issues before the Appeals Examiner are (1) whether unemployment is due to the claimant quitting voluntarily and, if so, whether with good cause connected with the employment -OR- being discharged and, if so, whether for misconduct in connection with the employment, according to § 72-1366(5) of the Idaho Employment Security Law; and (2) whether the employer's account is properly chargeable for experience rating purposes for benefits paid to the claimant, according to § 72-1351(2)(a) of the Idaho Employment Security Law.

FINDINGS OF FACT

Additional facts or testimony may exist in this case. However, the Appeals Examiner outlines only those that are relevant to the decision and those based upon reliable evidence. Based on the exhibits and testimony in the record, the following facts are found:

1. The claimant worked for this employer as a CNA (Certified Nurses Assistant), from October 4, 2006, through October 2, 2008. In the first four of the five calendar quarters preceding the one in which the claimant filed for benefits, this employer paid more wages than any other.
2. The claimant had been observed violating the employer's policy while using a hooyer lift to transfer a patient. As a result, administrator, Mark Cenis, met with the claimant on September 30, 2008, and advised her that she could not return to work until she had completed an inservice training class.
3. The claimant was scheduled off work on October 1st and 2nd, but agreed to take the class at 10:00 on October 2nd. The claimant did not attend the class. The employer had no further contact from the claimant.

AUTHORITY

Section 72-1351(2)(a) of the Idaho Employment Security Law provides in part that for experience rating purposes, no charge shall be made to the account of such covered employer with respect to benefits paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services.

Section 72-1366(5) of the Idaho Employment Security Law provides that a claimant shall be eligible for benefits provided unemployment is not due to the fact that the claimant left employment voluntarily without good cause, or was discharged for misconduct in connection with employment.

IDAPA 09.01.30.450. QUIT. Ref. Sec. 72-1366(5), Idaho Code.

01. *Burden Of Proof.* The claimant has the burden of proof to establish that he voluntarily left his employment with good cause in connection with the employment to be eligible for benefits.

02. Cause Connected With Employment. To be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment.

03. Good Cause. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling.

It is well settled that the burden of proving and establishing statutory eligibility for unemployment benefits rests with a claimant. Pyeatt vs. Idaho State University, 98 Idaho 424, 565 P.2d 1381 (1977), Hart vs. Deary High School, 126 Idaho 550, 552, 887 P.2d 1057, 1059(1994).

CONCLUSIONS

After reviewing the record, the Appeals Examiner concludes that the claimant quit the job without good cause in connection to employment and is not eligible for benefits. The employer's experience rated account is not chargeable.



Gregory Stevens
Appeals Examiner

Date of Mailing December 3, 2008 Last Day To Appeal December 17, 2008

APPEAL RIGHTS

You have FOURTEEN (14) DAYS FROM THE DATE OF MAILING to file a written appeal with the Idaho Industrial Commission. The appeal must be mailed to:

Idaho Industrial Commission
Judicial Division, IDOL Appeals
P.O. Box 83720
Boise, Idaho 83720-0041

Or delivered in person to:

Idaho Industrial Commission
700 S Clearwater Lane
Boise, ID 83712

Or transmitted by facsimile to:

(208) 332-7558.

If the appeal is mailed, it must be postmarked no later than the last day to appeal. An appeal filed by facsimile transmission must be received by the Commission by 5:00 p.m., Mountain Time, on the last day to appeal. A facsimile transmission received after 5:00 p.m. will be deemed received by the Commission on the next business day. A late appeal will be dismissed. Appeals filed by any means with the Appeals Bureau or a Department of Labor local office will not be accepted by the Commission. ***TO EMPLOYERS WHO ARE INCORPORATED:*** *If you file an appeal with the Idaho Industrial Commission, the appeal must be signed by a corporate officer or legal counsel licensed to practice in the State of Idaho and the signature must include the individual's title. The Commission will not consider appeals submitted by employer representatives who are not attorneys. If you request a hearing before the Commission or permission to file a legal brief, you must make these requests through legal counsel licensed to practice in the State of Idaho. Questions should be directed to the Idaho Industrial Commission, Unemployment Appeals, (208) 334-6024.*

If no appeal is filed, this decision will become final and cannot be changed. **TO CLAIMANT:** If this decision is changed, any benefits paid will be subject to repayment. If an appeal is filed, you should continue to report on your claim as long as you are unemployed.

IDAHO DEPARTMENT OF LABOR
APPEALS BUREAU
317 WEST MAIN STREET
BOISE, IDAHO 83735-0720
(208) 332-3572 / (800) 621-4938
FAX: (208) 334-6440

CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2008, a true and correct copy of **Decision of Appeals Examiner** was served by regular United States mail upon each of the following:

SVITLANA Y SIMPSON
2915 OWYHEE LN APTA
CALDWELL ID 83605

TRINITY MISSION HEALTH & REHAB OF
MIDLAND
c/o THOMAS & THORNGREN INC
PO BOX 280100
NASHVILLE TN 37228

cc: Idaho Department of Labor Caldwell Local Office – Decision of Appeals Examiner



CLAYTON HOMES OF NAMPA

STORE: 886
3015 NAMPA CALDWELL BLVD.
NAMPA, IDAHO 83651
(208) 466-1276 OFFICE
(208) 466-1269 FAX



F A X

TO: Dept of Labor FROM: Sivithana Simpson

FAX: 208 332-7558 PAGES: 2

PHONE: _____ DATE: 12/15/08

RE: Unemployment Appeal CC: _____

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

*COMMENTS:

FILED

INDUSTRIAL COMMISSION

December 15, 2008

Department of Labor
Unemployment Appeal

Dear Sirs,

My name is Svitlana Simpson, my social security number is [REDACTED] was receiving unemployment benefits until my employer protested recently.

I was fired by my employer on October 2nd 2008 which was my day off. On October 1st which also was my day off I had to come in and sign a cell phone policy and I did. My employer stated in their protest that I was no call no show on October first, I was on my day of and did in fact go in and sign a cell phone policy.

My employer said that I was fired because of attendance policy but I was fired on my day off. I have never missed a day of work in two years working for the company. I missed some training on my day off and I was never told by my employer that it was mandatory until they called my on October 2nd. When I was called by my employer I asked if I could come in and do the training. They told me I was fired. I wasn't given any opportunity to come back to work after my day off or come in on my day off and complete the training. I believe I am a good employee and was wrongly fired on my day off. As an hourly employee I am scheduled and payed for all days worked. This training was neither scheduled or was I going to be paid for it.

Sincerely,

Svitlana Simpson
1827 N. Eagleview St.
Nampa, Idaho 83651

(208) 392-2919

FILED

INDUSTRIAL COMMISSION

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
SSN: [REDACTED])
)
Claimant,)
)
vs.)
)
TRINITY MISSION HEALTH & REHAB)
OF MIDLAND L.P.,)
Employer,)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0480-2009

NOTICE OF FILING OF APPEAL

FILED

DEC 22 2008

INDUSTRIAL COMMISSION

PLEASE TAKE NOTICE: The Industrial Commission has received an appeal from a decision of an Appeals Examiner of the Idaho Department of Labor. A copy of the appeal is enclosed. Documents that are already part of the record or file will not be copied.

Further action will be taken by the Industrial Commission in accordance with its Rules of Appellate Practice and Procedure, a copy of which is enclosed.

PLEASE READ ALL THE RULES CAREFULLY

The Commission will make its decision in this appeal based on the record of the proceedings before the Appeals Examiner of the Idaho Department of Labor. To request a briefing schedule or hearing, refer to Rule 4(A) and 6(A,B) of the Rules of Appellate Practice and Procedure.

INDUSTRIAL COMMISSION
UNEMPLOYMENT APPEALS DIVISION
POST OFFICE BOX 83720
BOISE IDAHO 83720-0041
(208) 334-6024

8

CERTIFICATE OF SERVICE

I hereby certify that on the 22ND day of December, 2008, a true and correct copy of the **Notice of Filing of Appeal and compact disc of the Hearing** was served by regular United States mail upon the following:

APPEAL ONLY:

TRINITY MISSION HEALTH & REHALF OF MIDLAND LP
C/O THOMAS & THORNGREN INC
PO BOX 280100
NASHVILLE TN 37228

APPEAL AND DISC:

SVITLANA Y SIMPSON
2915 OWYHEE LN APT A
CALDWELL ID 83605

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



Assistant Commission Secretary

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
 Claimant,)
)
 vs.)
)
 TRINITY MISSION HEALTH & REHAB)
 OF MIDLAND L.P.)
 Employer,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
)

IDOL # 0480-2009

FILED

DEC 31 2008

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 31ST day of December, 2008, a true and correct copy of **Notice of Appeal and Compact Disc of Hearing**, was re-served to correct Claimant's address, by regular United States mail upon the following:

SVITLANA SIMPSON
1827 N EAGLEVIEW ST
NAMPA IDAHO 83651

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATEHOUSE MAIL
317 W MAIN ST
BOISE ID 83735

mcs


Assistant Commission Secretary

December 31, 2008

Industrial Commission
Unemployment Appeals Division

Dear Referee,

My name is Svitlana Simpson and this is my IDOL# 0480-2009. I received your letter with the CD on December 23, 2008. I want to explain everything that happened regarding my unemployment.

First I want to explain why I missed the hearing on December 3, 2008. My family and I moved from Caldwell to Nampa on November 21st. I put a change of address form in our mailbox as the mailman had suggested. It was already December but I was not receiving any mail. I went to our old place and found the mailbox sealed. I then went to the post office and they did not have my change of address form. I filled out a new change of address form. I started receiving mail on December 10th.

Now I would like to tell you about my employer, Trinity Mission Health and Rehab on Midland. I was hired October 4, 2006 and worked for them until I was fired October 2, 2008.. I worked full time and never called in sick and never missed a day of work in two years. You can check my record of perfect attendance. I am a responsible person. In 2007 I worked for Trinity 60 hours per week for almost 8 months and I never complained about it.

On October 1, 2008 (my first day of the week) I received a phone call from Mark Cenis, my administrator and he said he would like to talk to me and asked if I could come in at 1:00 pm that day. I was on time to see him. He gave me a form to sign which was about using your cell phone. I signed the cell phone policy form and told him that I did turn off my cell phone without removing it from my pocket. I will explain that every year at my work we have people from Welfare who make sure we do our job correctly and treat our residents with respect. They usually stay Monday through Friday and this year they came on September 22 and stayed through September 26th.

On September 23rd I came to work but forgot to turn off my cell phone. About 8am my phone began to ring and a lady from Welfare heard it before I got it turned off. After that I worked September 24, 25, 28, 29 and 30th and I am wondering why my employer waited all those days to call me in and sign a cell phone policy on my day off? I did go in and sign the cell phone policy. Then my administrator, Mark Cenis asked me if I could come in on October 2nd, which was my day off, for a meeting and training. I asked him what the meeting was about and how many people were going to attend. He said there will be two more people and it will be about the Hoyer safety lift. I said that I could come in at 10:00am the next day. I got busy with my four kids and forgot all about the meeting. I received a phone call from Raye (who writes out our schedules) at 1pm and

INDUSTRIAL COMMISSION

DEC 31 2008

FILED

she asked if I had forgotten the meeting? I replied, "Oh yes, I am so sorry!" Then Raye asked me if I could still come in and I said yes I can do it today or tomorrow after work. She said "Lets just make sure its OK with Gayla Clark "(Supervisor). Raye transferred me to Gayla. Gayla picked up the phone and said, "Lana, it was not an option and as of today October 2nd, you are fired because this was a mandatory meeting."

Mark Cenis never said it was a mandatory meeting to me and on the CD recording that I received from you he never said it was a mandatory meeting. My employer called me in on both my days off and I came in on one of them. I was not given an opportunity to come back to work. I was not informed that it was a mandatory meeting and my employer told Idaho Department of Labor that I was "NO CALL NO SHOW" on my day off. I have read the NO CALL NO SHOW POLICY over and over and it doesn't say anywhere that you can be NO CALL NO SHOW on your day off. I am an hourly employee and get paid by the hour for scheduled work. This meeting was not listed on any regular work schedule and I was not going to be paid for time spent for the training meeting.

Examiner Gregory B Stevens asked Mark Cenis about October 2nd and what happened to S. Simpson that day. Mark said she was a NO CALL NO SHOW and when asked if I contacted Trinity Mission that day - he said I might have called in on the 2nd or 3rd but he didn't really know. As an administrator he should know what is taking place in his facility especially when a good employee is fired. He should know that I called in that day and he should know that I tried to do the training that day. He should also know that the meeting was not listed on the work schedule or marked anywhere as mandatory. I am a mother of four and this is very important to my family's well being.

I appreciate your time and efforts in assisting me on this matter.

Sincerely,

Svitlana Simpson

Svitlana Simpson
1827 N. Eagleview St.
Nampa, Idaho 83651

(208) 392-2919

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
Claimant,)
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vs.)
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TRINITY MISSION HEALTH & REHAB)
OF MIDLAND L.P.)
Employer,)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0480-2009

FILED

JAN - 2 2009

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 2ND day of January , 2009 a true and correct copy of **Claimants correspondence, filed December 31, 2008** was served by regular United States mail upon the following:

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATEHOUSE MAIL
317 W MAIN ST
BOISE ID 83738

mcs



Assistant Commission Secretary

cc: SVITLANA SIMPSON
1827 N EAGLEVIEW ST
NAMPA IDAHO 83651

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CRAIG G. BLEDSOE - ISB# 3431
KATHERINE TAKASUGI - ISB# 5208
TRACEY K. ROLFSEN - ISB# 4050
CHERYL GEORGE - ISB# 4213
Deputy Attorneys General
Idaho Department of Labor
317 W. Main Street
Boise, Idaho 83735
Telephone: (208) 332-3570 ext. 3184

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
 Claimant,)
)
 vs.)
)
 TRINITY MISSION HEALTH & REHAB,)
)
 Employer,)
)
 and)
)
 STATE OF IDAHO,)
 DEPARTMENT LABOR.)
)

IDOL NO. 0480-2009


NOTICE OF APPEARANCE

FILED
JAN 05 2009
INDUSTRIAL COMMISSION

TO THE ABOVE-NAMED PARTIES:

Please be advised that the undersigned Deputy Attorney General representing the Idaho Department of Labor hereby enters the appearance of said attorneys as the attorneys of record for the State of Idaho, Department of Labor, in the above-entitled proceeding. By statute, the Department of Labor is a party to all unemployment insurance appeals in Idaho.

DATED this 30TH day of December, 2008.


Tracey K. Rolfsen
Deputy Attorney General
Attorney for the State of Idaho,
Department of Labor

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a copy of the foregoing NOTICE OF APPEARANCE, was mailed, postage prepaid, this 30TH day of December, 2008, to:

SVITLANA Y SIMPSON
1827 N EAGLEVIEW ST
NAMPA ID 83651

TRINITY MISSION HEALTH & REHAB
C/O BOX 280100
NASHVILLE TN 37228



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
 Claimant,)
)
 vs.)
)
 TRINITY MISSION HEALTH & REHAB)
 OF MIDLAND L.P.,)
)
 Employer,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
 _____)

IDOL #0480-2009
DECISION AND ORDER

FILED
 JAN 23 2009
 INDUSTRIAL COMMISSION

Claimant, Svitlana Y. Simpson, appeals to the Industrial Commission a Decision issued by the Idaho Department of Labor (“IDOL” or “Department”) ruling her ineligible for unemployment insurance benefits. The Department’s Appeals Examiner concluded that: (1) Claimant quit her job with Employer for reasons other than employment-related good cause; and, (2) Employer’s account is not chargeable for experience rating purposes.

Claimant did not appear at the Appeals Examiner’s hearing on December 3, 2008. Claimant explains in a letter to the Commission that she and her family moved on November 21, 2008, and even though she completed a change of address form for the Post Office, the Post Office did not process it. Claimant was not receiving mail at her new address in early December and discovered that the Post Office had not processed the change of address. Claimant completed a second change of address and began receiving mail on December 10, 2008. (Claimant’s correspondence, filed December 31, 2008).

Notes in the file maintained by the Appeals Bureau indicate that Claimant called on December 15, 2008, to inquire about a decision from the hearing, presumably because Claimant finally received the Notice of Hearing indicating that one had been scheduled for December 3, 2008. During that call, Claimant provided IDOL with her new address and the Appeals Bureau mailed Claimant a copy of the Decision the Appeals Examiner had issued on December 3, 2008.

Claimant's circumstances beg the question as to whether she was provided with due process and whether a new hearing is in order. Idaho Code § 72-1368(5), defines service. "A notice shall be deemed served if delivered to the person being served or if mailed to his last known address; service by mail shall be deemed complete on the date of mailing." Idaho Code § 72-1368(5) (2004). The Appeals Bureau mailed the Notice of Hearing and accompanying documents to Claimant at her address of record on November 25, 2008.

We note that at the time she moved, Claimant was eligible for unemployment benefits and presumably filing weekly claim reports. The claim reporting process allows claimants to update their mailing addresses with IDOL. Claimant was under a continuing obligation to keep her address current. Had Claimant completed a change of address when she filed her claim report for the week ending November 22, 2008, she likely would have received the Notice of Hearing at her new address. Claimant did not notify IDOL of her change of address until December 12, 2008. We are satisfied that Claimant's failure to appear at the Appeals Examiner's hearing was not the result of a defect in due process. Further, we note that although Claimant explains her failure to appear at the hearing, she does not specifically ask for a new hearing. Therefore, we conclude that no additional hearing is necessary to further the interests of justice in this matter.

DECISION AND ORDER - 2

The undersigned Commissioners have conducted a *de novo* review of the record as provided for in Idaho Code § 72-1368(7) and opinions issued by the Idaho Supreme Court. The Commission has relied on the audio recording of the hearing before the Appeals Examiner held on December 3, 2008, along with the exhibits [1 through 6] admitted into the record during that proceeding.

FINDINGS OF FACT

Based on the testimony and the evidence in the record, the Commission concurs with and adopts the Findings of Fact as set forth in the Appeals Examiner's Decision.

DISCUSSION

The Appeals Examiner concluded that Claimant's separation was the result of Claimant quitting her job rather than Employer discharging her. Employer maintains that Claimant abandoned her job when she failed to report for an in-service training she agreed to attend and did not contact anyone regarding her absence. (Audio recording). Idaho Code § 72-1366(5), provides in part that a claimant is eligible for unemployment insurance benefits if he or she quits for good cause related to employment.

If an employee voluntarily quits his or her job, that employee bears the burden of proving that the terms and conditions of that employment provided him or her with good cause to quit. Moore v. Melaleuca, Inc., 137 Idaho 23, 43 P.3d 782 (2002). The Idaho Supreme Court and the Idaho Administrative Code both define what constitutes "good cause" for quitting employment for the purpose of establishing eligibility for unemployment benefits. IDAPA 09.01.30.450.03, provides that good cause is established when the claimant demonstrates that his or her real, substantial, and compelling circumstances would have forced a "reasonable person" to quit. Stated another way, "good cause" exists when the essential conditions of the workplace

DECISION AND ORDER - 3

environment are so extraordinary that an average person standing in the claimant's place would prefer joblessness to continuing the employment relationship. See Ewins v. Allied Security, 138 Idaho 343, 347-48, 63 P.3d 469, 473-74 (2004); Burroughs v. Employment Sec. Agency, 86 Idaho 412, 414, 387 P.2d 473, 474 (1963). Reasons that are purely personal to the claimant are not "good cause" for terminating ones employment.

Claimant was a C.N.A. for Employer's residential care facility. During an evaluation by officials from Idaho's Department of Health and Welfare, Claimant was observed responding to her cellular telephone while she was transferring a patient using a Hoyer lift. This was in direct violation of Employer's policy and would have been noted in the Health and Welfare evaluation. (Audio recording).

Mark Cenis, Employer's administrator, met with Claimant to discuss the incident. Mr. Cenis asked Claimant to sign a copy of Employer's cellular telephone policy to indicate that she understood that policy. Mr. Cenis also told Claimant that she could not return to work until she completed an in-service training on the Hoyer lift. Although October 2, 2008, was a regularly scheduled day off for Claimant, she agreed to complete the class at 10:00 a.m. on that day. (Audio recording).

Claimant did not report to the class on October 2, 2008. Claimant did not call anyone in advance to report that her plans had changed and she needed to reschedule the class. Claimant did not make any further contact with Employer to make other arrangements. Therefore, Employer determined that Claimant had abandoned her job. (Audio recording).

In cases of absent employees, the Idaho Supreme Court has held that the employee has a duty to: (1) advise an employer of the reason for his or her absence; (2) seek a leave of absence; and (3) keep the employer informed of his or her intentions and prospects of returning to work.

DECISION AND ORDER - 4

Doran v. Employment Security Agency, 75 Idaho 95, 267 P.2d 628 (1954). Since Doran, the Court has recognized that there may be extenuating circumstances to prevent a claimant from seeking a leave of absence or timely communicating the reason for an absence. Therefore, the standard we currently apply “is that ‘good faith on the part of the employee must always appear,’ and the employee must ‘act as a reasonably prudent person would in keeping in contact with his employer and in securing the permanence of his employment.’” Clay v. BMC West Truss Plant, 127 Idaho 501, 503, 903 P.2d 90, 93 (1995)(Citing Doran).

If Claimant wanted to retain her job, she had an obligation to complete the in-service training. Claimant agreed to the date and time of that training. However, Claimant did not follow-through with attending the in-service and made no attempt to reschedule it. Therefore, we find that Claimant essentially abandoned her job. There is no evidence that she did so for reasons that could be construed as employment-related good cause. Accordingly, Claimant is ineligible for unemployment benefits.

CONCLUSIONS OF LAW

I

We conclude that Claimant quit her job with Employer for reasons other than employment-related good cause.

II

We further conclude that Employer’s account is not chargeable for experience rating purposes.

ORDER

Based on the foregoing analysis, the Decision of the Appeals Examiner is AFFIRMED, and Claimant is ineligible for unemployment benefits. This is a final order under Idaho Code §

DECISION AND ORDER - 5

72-1368(7).

DATED this 23 day of January 2009.

INDUSTRIAL COMMISSION
COMMISSIONER MAYNARD PARTICIPATED
IN THIS DECISION BUT DID NOT SIGN

R.D. Maynard, Chairman

Thomas E. Limbaugh

Thomas E. Limbaugh, Commissioner

James F. Kile

James F. Kile, Commissioner



ATTEST:
[Signature]

Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of January 2009, a true and correct copy of **Decision and Order** was served by regular United States mail upon each of the following:

SVITLANA SIMPSON
1827 N EAGLEVIEW ST
NAMPA IDAHO 83651

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN ST
BOISE ID 83735

TRINITY MISSION HEALTH & REHALF OF MIDLAND LP
C/O THOMAS & THORNGREN INC
PO BOX 280100
NASHVILLE TN 37228

mcs

[Signature]

DECISION AND ORDER - 6

For Reconsideration:

FILED

FEB - 5 2009

INDUSTRIAL COMMISSION

My name is Svitlana Simpson. My IDOL# is 0480-2009.

I would like to state the reasons for reconsideration based on the decision to deny my unemployment benefits. I feel I have not been given a fair chance to state my position based on the final decision made by the Industrial Commission.

In a letter filed and dated on January 23 by the Industrial Commission it states that (1)" Claimant quit her job with Employer for reasons other than employment-related good cause;"

I will now respond to the first claim. I did not quit my job. On October 2nd 2008 on my day off, I was told by my employer that I was fired. I was not given an opportunity to make up training missed on that day. My employer never told me the training was mandatory and that I would lose my job if I did miss the training. There was not a copy of the training provided in any exhibit by my employer signed by myself stating that I would be at the training and that it was mandatory. I did however verbally agree to come to the training. At no point was I told that the training on October 2nd was mandatory training. My employer used the missed training as an attempt to say that I was no call no show for a scheduled day of work. This is a case of my employer saying one thing and myself stating another. Without a signed copy or some proof that this training was indeed mandatory the industrial commission based its finding on word of mouth using evidence on an audio recorded hearing which I wasn't present to back it up. To add further on my work schedule there was no day listed for training on October 2nd 2008. During a phone conversation with my employer on October 2nd to reschedule the training I wasn't given the opportunity to make up the training or come back into work for my scheduled shift on October 3rd. I was told that I was fired and that missing the training was not an option. By definition of the word fired- Firing refers to a decision made by an employer to terminate employment, to be fired, as opposed to quitting voluntarily or being laid off. If I was fired I did not self terminate my employment. At no point did I tell my employer I wanted to quit or not come to work.

Response to (2)"Employer's account is not chargeable for experience rating purposes."

The finding in (2) of Decision and Order finds that I did not maintain my address as I was told to do by Idaho Unemployment. The findings state that had I put in my change of address when I filed my weekly claim ending November 22nd, 2008 I likely would have received the Notice of Hearing at my new address. I did put in my change of address on November 21 as stated in my faxed letter to the industrial commission which was faxed on December 31st. I was not aware that the apartment that I had moved from bound up my mail box that day which stopped the post office from getting the change of address form. When I became aware that this had happened I put in my change of address this time directly at the post office. I then started receiving mail. I was unaware that I could update my address online at the Unemployment website and I regret not being as familiar with computers as I would like to be. I grew up in Ukraine and I was never exposed to computers until I started living in this country. I just recently have a computer in the home for the first time. It would have been fair that on the

Unemployment website where I complete my weekly claim if it had said that my case is under protest and that I have a phone hearing on December 3rd. I would hope that you take this case into account for future purposes that people should be informed online as well. I know that if I was informed online which is where my sole communication with the Unemployment agency is conducted on a weekly basis I would have been at that phone hearing. I do not believe I was given due process. I do feel that there are circumstances involved in this case that justify my need for a new hearing. Furthermore the Decision and Order paper states that I did not ask for a new hearing. I called and spoke with Mary Shieler(not exact on the spelling of last name), (phone number 208-334-6024) and she told me that I could not get another hearing and that my only option was to send in a new letter which is the one I faxed on December 31st 2008 and that it would be reviewed by a referee from the industrial commission. I would like you to reconsider the decision based on that the Decision and Order paper that states: "Therefore, we conclude that no additional hearing is necessary to further the interests of justice in this matter."

I would very much like to have the opportunity for another hearing. I do not agree with the findings in page 3 of Decision and Order that states: "The Appeals Examiner concluded that Claimant's separation was the result of Claimant quitting her job rather than Employer discharging her." I do not understand that if my employer tells me I am fired that I discharged myself. On October 2nd 2008 when I tried to reschedule training on the phone my employer told me "you're fired". I started receiving unemployment benefits based on the fact that I was fired. I was not given the opportunity to come back to work; I was not given the opportunity to reschedule my training. Decision and Order paper also states that my administrator at Trinity Mission claimed I could not come back to work until I completed an in-service training on the Hoyer lift. Mark never told me that I would not be able to come back to work if the training was not completed on the 2nd of October 2008. I feel that my employer could have given me time to complete the training and continue working for them. I have always been a good employee for trinity mission. I always received a perfect attendance award every three months from my employer. An employee with 2 years of perfect attendance would not miss training that could jeopardize her job. I am a very responsible person and have worked overtime when asked by my employer to help them out when other employees did not show up for their scheduled shift or unexpectedly quit. The date I was fired my schedulist(Raye) was going to reschedule training for me but she had to clear it first with Gayla my supervisor, when Gayla got on the phone with me she said the training was not an option to miss and that I was fired. I also was 5 - 1/2 month pregnant and I feel they really didn't want me working there because as a CNA I had to do lots of lifting. I feel I was fired in part because I was scheduled to receive another yearly increase in pay soon. Many CNA's come and go at trinity Mission, you will find if you talk to my Employer that they have a high turnover rate with their employees. I always worked my best and didn't complain when things got difficult at work.

I would also like to dispute the claim in the Audio recording that Mark Cenís states that I picked up my cell phone and looked at it while transporting a resident on a Hoyer lift. What in fact happened was during a health inspection by the state my cell phone rang while I was getting a Hoyer harness ready for a resident who was still in bed. At no time did I remove my cell phone from my pocket to look at it. I grabbed at my pants pocket and hit the off switch on my phone without ever removing my cell phone

from my pocket. This is why I was asked to sign a cell phone policy on October 1st 2008. At no time on October 1st did Mark Cenis tell me that I could not return to work until I had completed the Hoyer lift training and at no time was I told it was mandatory. On the audio recording Mark Cenis states that I discharged myself when in fact Gayla my supervisor discharged me by saying "you're fired" in a phone conversation I had with Gayla on October 2nd. I feel that another hearing would be able to clear the matter concerning my unemployment. Mark Cenis was not sure if I called in on October 2nd or October 3rd. I would like you to reconsider the decision based on facts stated in this letter. Let a new decision be made after another hearing has been scheduled. I appreciate all the hard work and time the Idaho Department of labor and Industrial Commission has put into this case and all the time spent reviewing this case. I would like to make sure that a fair and correct decision be made by hearing both sides of the story and not using the lone testimony of an audio recorded hearing which only my employer was present.

Thank you for your time,

Svitlana Simpson

1827 N Eagle view St

Nampa Idaho 83651

February 3, 2008.

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
Claimant,)
)
vs.)
)
TRINITY MISSION HEALTHY & REHAB)
OF MIDLAND L.P.,)
Employer,)
)
and)
)
IDAHO DEPARTMENT OF LABOR,)
)
_____)

IDOL # 0480-2009

FILED

FEB 06 2009

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of February, 2009 a true and correct copy of **Claimant's request for reconsideration, filed February 5, 2009** was served by regular United States mail upon the following:

TRINITY MISSION HEALTH & REHAB OF MIDLAND LP
C/O THOMAS & THORNGREN INC
PO BOX 280100
NASHVILLE TN 83651

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



Assistant Commission Secretary

cc: SVITLANA SIMPSON
1827 N EAGLEVIEW ST
NAMPA ID 83651

FOR THE IDAHO SUPREME COURT

My name is Svitlana Simpson. My IDOL# is 0480-2009.

The following is what I sent to Idaho Unemployment and Industrial commission. I have not yet heard back on their decision for a new hearing or to grant my unemployment benefits. Since the law only allows me 45 days to send this to the Idaho Supreme Court, I am sending this to the Supreme Court so that I will not run out of the time allotted to me by law.

I would like to state the reasons for reconsideration based on the decision to deny my unemployment benefits. I feel I have not been given a fair chance to state my position based on the final decision made by the Industrial Commission.

In a letter filed and dated on January 23 by the Industrial Commission it states that (1)" Claimant quit her job with Employer for reasons other than employment-related good cause;"

I will now respond to the first claim. I did not quit my job. On October 2nd 2008 on my day off, I was told by my employer that I was fired. I was not given an opportunity to make up training missed on that day. My employer never told me the training was mandatory and that I would lose my job if I did miss the training. There was not a copy of the training provided in any exhibit by my employer signed by myself stating that I would be at the training and that it was mandatory. I did however verbally agree to come to the training. At no point was I told that the training on October 2nd was mandatory training. My employer used the missed training as an attempt to say that I was no call no show for a scheduled day of work. This is a case of my employer saying one thing and myself stating another. Without a signed copy or some proof that this training was indeed mandatory the industrial commission based its finding on word of mouth using evidence on an audio recorded hearing which I wasn't present to back it up. To add further on my work schedule there was no day listed for training on October 2nd 2008. During a phone conversation with my employer on October 2nd to reschedule the training I wasn't given the opportunity to make up the training or come back into work for my scheduled shift on October 3rd. I was told that I was fired and that missing the training was not an option. By definition of the word fired- Firing refers to a decision made by an employer to terminate employment, to be fired, as opposed to quitting voluntarily or being laid off. If I was fired I did not self terminate my employment. At no point did I tell my employer I wanted to quit or not come to work.

Response to (2)"Employer's account is not chargeable for experience rating purposes."

The finding in (2) of Decision and Order finds that I did not maintain my address as I was told to do by Idaho Unemployment. The findings state that had I put in my change of address when I filed my weekly claim ending November 22nd, 2008 I likely would have received the Notice of Hearing at my new address. I did put in my change of address on November 21 as stated in my faxed letter to the industrial commission which was faxed on December 31st. I was not aware that the apartment that I had moved from bound up my mail box that day which stopped the post office from getting the change of address

form. When I became aware that this had happened I put in my change of address this time directly at the post office. I then started receiving mail. I was unaware that I could update my address online at the Unemployment website and I regret not being as familiar with computers as I would like to be. I grew up in Ukraine and I was never exposed to computers until I started living in this country. I just recently have a computer in the home for the first time. It would have been fair that on the Unemployment website where I complete my weekly claim if it had said that my case is under protest and that I have a phone hearing on December 3rd. I would hope that you take this case into account for future purposes that people should be informed online as well. I know that if I was informed online which is where my sole communication with the Unemployment agency is conducted on a weekly basis I would have been at that phone hearing. I do not believe I was given due process. I do feel that there are circumstances involved in this case that justify my need for a new hearing. Furthermore the Decision and Order paper states that I did not ask for a new hearing. I called and spoke with Mary Shieler(not exact on the spelling of last name), (phone number 208-334-6024) and she told me that I could not get another hearing and that my only option was to send in a new letter which is the one I faxed on December 31st 2008 and that it would be reviewed by a referee from the industrial commission. I would like you to reconsider the decision based on that the Decision and Order paper that states: "Therefore, we conclude that no additional hearing is necessary to further the interests of justice in this matter."

I would very much like to have the opportunity for another hearing. I do not agree with the findings in page 3 of Decision and Order that states: "The Appeals Examiner concluded that Claimant's separation was the result of Claimant quitting her job rather than Employer discharging her." I do not understand that if my employer tells me I am fired that I discharged myself. On October 2nd 2008 when I tried to reschedule training on the phone my employer told me "you're fired". I started receiving unemployment benefits based on the fact that I was fired. I was not given the opportunity to come back to work; I was not given the opportunity to reschedule my training. Decision and Order paper also states that my administrator at Trinity Mission claimed I could not come back to work until I completed an in-service training on the Hoyer lift. Mark never told me that I would not be able to come back to work if the training was not completed on the 2nd of October 2008. I feel that my employer could have given me time to complete the training and continue working for them. I have always been a good employee for trinity mission. I always received a perfect attendance award every three months from my employer. An employee with 2 years of perfect attendance would not miss training that could jeopardize her job. I am a very responsible person and have worked overtime when asked by my employer to help them out when other employees did not show up for their scheduled shift or unexpectedly quit. The date I was fired my schedulist(Raye) was going to reschedule training for me but she had to clear it first with Gayla my supervisor, when Gayla got on the phone with me she said the training was not an option to miss and that I was fired. I also was 5 - ½ month pregnant and I feel they really didn't want me working there because as a CNA I had to do lots of lifting. I feel I was fired in part because I was scheduled to receive another yearly increase in pay soon. Many CNA's come and go at trinity Mission, you will find if you talk to my Employer that they have a high turnover rate with their employees. I always worked my best and didn't complain when things got difficult at work.

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Thank you for your time,

Svitlana Simpson

1827 N Eagle view St

Nampa Idaho 83651

February 3, 2008.

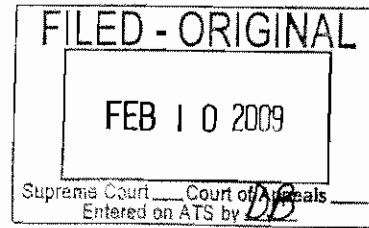
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IDAHO SUPREME COURT
CLERK OF COURTS
FEB 10 AM 9:44

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
Claimant/Appellant,)
)
vs.)
)
TRINITY MISSION HEALTH & REHAB)
OF MIDLAND L.P.,)
Employer/Respondent,)
)
and)
)
IDAHO DEPARTMENT OF LABOR,)
Respondent.)
)

SUPREME COURT NO. 36144

CERTIFICATE OF APPEAL



Appeal From: Industrial Commission,
R.D. Maynard, Chairman, presiding.

Case Number: IDOL # 0480-2009

Order Appealed from: Decision and Order, filed Jan. 23, 2009, and
**Claimant filed a Reconsideration on Feb. 5, 2009
which is pending before the Industrial Commission**

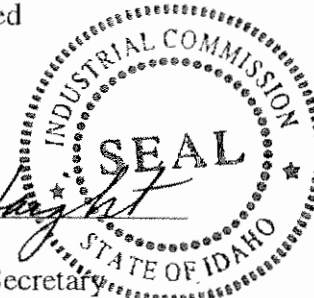
Representative for Claimant: Svitlana Simpson, Pro Se
1827 N. Eagle View Street
Nampa, ID 83651

Representative for Employers: Trinity Mission Health & Rehab
of Midland, LP
c/o Thomas & Thorngren, Inc.
PO Box 280100
Nashville, TN 83651

Representative for IDOL: Tracey Rolfsen
Idaho Dept. of Labor
317 W. Main Street
Boise, ID 83735

CERTIFICATE OF APPEAL (Simpson) - 1

Appealed By: Claimant/Appellant
Appealed Against: Employer/Respondent
and
Idaho Department of Labor/Respondent
Notice of Appeal Filed: February 6, 2009
Appellate Fee Paid: Yes
Transcript: - Transcript will be ordered
Dated: February 9, 2009


Carol J. Haight
Carol J. Haight
Assistant Commission Secretary

CERTIFICATION

I, Carol J. Haight, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Appeal filed February 6, 2009; Decision and Order, filed January 23, 2009; and the whole thereof. **Pending before the Industrial Commission is Claimant's Reconsideration, filed February 5, 2009 (copy attached).**

DATED: February 9, 2009



Carol J. Haight
Assistant Commission Secretary



TO:

Idaho Industrial Commission
(208) 332-7558

FROM:

Svitlana Y. Simpson
1827 N. Eagleview St.
Nampa, Idaho 83651

FILED
MAR - 3 2009
INDUSTRIAL COMMISSION

SVITLANA Y. SIMPSON

1827 N EAGLE VIEW ST.
NAMPA ID, 83651
208-392-2919

IN THE STATE OF IDAHO INDUSTRIAL COMMISSION

SVITLANA Y. SIMPSON)
)
 Claimant/Appellant,)
)
 vs.)
)
 TRINITY MISSION HEALTH &)
 REHAB OF MIDLAND L.P.,)
 Employer/Respondent,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR)
 Respondent.)
)
)

Case No. 36144
NOTICE OF APPEAL
AMENDED

FILED
MAR 03 2009
INDUSTRIAL COMMISSION

TO: TRINITY MISSION HEALTH & REHAB OF MIDLAND L.P., IDAHO DEPARTMENT OF LABOR, AND SVITLANA SIMPSON 1827 N EAGLE VIEW ST NAMPA ID 83651, AND THE CLERK OF THE IDAHO INDUSTRIAL COMMISSION.

NOTICE IS HEREBY GIVEN THAT:

1. SVITLANA Y. SIMPSON, appeals against TRINITY MISSION HEALTH & REHAB OF MIDLAND L.P., and IDAHO DEPARTMENT OF LABOR to the Idaho Supreme Court from the final of Decision and Order, filed Jan. 23, 2009, and Claimant filed a Reconsideration on Feb. 5, 2009 which is pending before the Industrial Commission, Case Number: IDOL # 0480-2009.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule [e.g. (11(a)(2)) or (12(a))] I.A.R.

3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

4. Has an order been entered sealing all or any portion of the record? No

5.(a) Is a reporter's transcript requested? Yes

(b) The appellant requests the preparation of the following portions of the reporter's transcript: Audio recording of the hearing before the Appeals Examiner held on December 3, 2008.

6. The appellant requests the following documents to be included in the clerk's Idaho Industrial Commission record in addition to those automatically included under Rule 28, I.A.R.

All communication and documentation from Idaho Industrial Commission, Idaho Department of Labor, Trinity Mission Health & Rehab and Svitlana Y. Simpson.

7. I certify:

(a) that a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

Name and address: _____

Name and address: _____

Name and address: _____

(b) (1) That the clerk of the district court or administrative agency has been paid the estimated fee for preparation of the reporter's transcript.

(2) That the appellant is exempt from paying the estimated transcript fee because _____

(c) (1) That the estimated fee for preparation of the clerk's or agency's record has been paid.

(2) That appellant is exempt from paying the estimated fee for preparation of the record because _____

(d) (1) That the appellate filing fee has been paid.

(2) That appellant is exempt from paying the appellate filing fee because _____

(e) That service has been made upon all parties required to be served pursuant to Rule 20 (and the attorney general of Idaho pursuant to § 67-1401(1), Idaho Code).

DATED THIS 3RD day of MARCH, 2009.

/s/Attorney's Signature

(Name of Attorney or Firm for Appellant)
Attorneys for the Appellant

(When certification is made by a party instead of the party's attorney the following affidavit must be executed pursuant to I.A.R. Rule 17(i))

State of Idaho)
County of (CANYON)) ss.

Svitlana Y SIMPSON, being sworn, deposes and says:

That the party is the appellant in the above-entitled appeal, and that all statements in this notice of appeal are true and correct to the best of his or her knowledge and belief.

Svitlana Simpson
Signature of Appellant

Subscribed and Sworn to before me this 3 day of MARCH, 2007.

(SEAL)



[Signature]

Title
Residence
3015 NAMPA CIRCLE BLVD
NAMPA IDAHO 83401

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON)
)
Claimant,)
)
vs.)
)
TRINITY MISSION HEALTH & REHAB,)
OF MIDLAND, L.P.)
Employer,)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0480-2009
Supreme Court # 36144

FILED
MAR 04 2009
INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of March, 2009 a true and correct copy of **Notice of Appeal Amended, Filed March 3, 2009** was served by regular United States mail upon the following:

IDAHO SUPREME COURT
ATTN: DOROTHY BEAVER
STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83720-0101

mcs


Assistant Commission Secretary

CERTIFICATION OF RECORD

I, Carol Haight, the undersigned Assistant Commission Secretary of the Industrial Commission, do hereby certify that the foregoing record contains true and correct copies of all pleadings, documents, and papers designated to be included in the Agency's Record on appeal by Rule 28(3) of the Idaho Appellate Rules and by the Notice of Appeal, pursuant to the provisions of Rule 28(b).

I further certify that all exhibits admitted in this proceeding are correctly listed in the List of Exhibits (i). Said exhibits will be lodged with the Supreme Court after the Record is settled.

DATED this 1st day of June, 2009.

Carol J. Haight
Assistant Commission Secretary



BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

SVITLANA Y. SIMPSON,)
)
 Claimant/Appellant,)
)
 vs.)
)
 TRINITY MISSION HEALTH & REHAB)
 OF MIDLAND L.P.,)
 Employer/Respondent,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR,)
 Respondent.)
)

SUPREME COURT NO. 36144

NOTICE OF COMPLETION

TO: STEPHEN W. KENYON, Clerk of the Courts; and
Svitlana Simpson, Pro Se, Claimant/Appellant; and
Tracey Rolfsen, Idaho Department of Labor, Respondent.

YOU ARE HEREBY NOTIFIED that the Agency's Record was completed on this date and,
pursuant to Rule 24(a) and Rule 27(a), Idaho Appellate Rules, copies of the same have been served
by regular U.S. mail upon each of the following:

For Claimant/Appellant:

Svitlana Simpson, Pro Se
1827 N. Eagleview St.
Nampa ID 83651

For Respondent:

Tracey Rolfsen
Deputy Attorney General
Idaho Department of Labor
317 W. Main St.
Boise ID 83735

YOU ARE FURTHER NOTIFIED that pursuant to Rule 29(a), Idaho Appellate Rules, all parties have twenty-eight days from the date of this Notice in which to file objections to the Agency's Record or Reporter's Transcript, including requests for corrections, additions or deletions. In the event no objections to the Agency's Record or Reporter's Transcript are filed within the twenty-eight day period, the Agency's Record and Reporter's Transcript shall be deemed settled.

DATED this 1st day of June, 2009.

Carol J. Haight
Assistant Commission Secretary

