

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RENEE D OLIVER
Claimant

APPEAL NO. 08A-UI-01857-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/06/08 R: 04
Claimant: Appellant (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Renee D. Oliver (claimant) appealed a representative's February 13, 2008 decision (reference 03) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Team Staffing Solutions, Inc. (employer) would not be charged because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 11, 2008. The claimant participated in the hearing. Sarah Fiedler, a human resource assistant, appeared on the employer's behalf. (The claimant and her husband, Harrison, worked at the same job assignment.) The parties agreed the hearings for the claimant and Harrison could be consolidated. Harrison Oliver also presented testimony during the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant and her husband registered to work for the employer. The employer assigned the claimant and her husband to work at Miller Container. The claimant started this assignment on September 12, 2007. On September 28, the claimant and her husband received a call at work that their daughter, who lives in Chicago, has been beaten and was hospitalized. They were asked to come to Chicago immediately. The claimant and her husband talked to Miller Container management to see if they could leave work early. Since there was only 20 minutes left of her shift, the claimant and her husband completed their shifts as scheduled on September 28. Miller Container personnel knew the claimant and her husband went to Chicago.

The claimant or her husband contacted the employer on October 1 to let the employer know they were in Chicago and why. The employer's representative told the claimant and her husband the employer would contact Miller Container to update them about the claimant's family medical emergency situation. On October 2, the claimant and her husband again contacted the employer. The employer's representative indicated that Miller Container had no problems with the claimant and her husband taking as long as they needed to be with their daughter. The claimant and her husband indicated they would be back in a couple of days or as soon as their daughter was released from the hospital. The employer took the claimant's statement literally and understood they would be back at work on October 4. Miller Container had no problems with the claimant and her husband returning to work on October 4.

The claimant and her husband did not return to Davenport until Friday, October 5. When they stopped at the employer's office to pick up their paychecks, they learned Miller Container wanted a doctor's statement verifying the need for them to be in Chicago. The claimant and her husband indicated they could get this from their daughter but it would take a few days. The claimant and her husband contacted their daughter to mail this requested information to them. The claimant and her husband understood they could not work at Miller Container until they received the requested doctor's statement.

On October 9, 2007, the employer contacted the claimant and her husband to let them know Miller Container no longer needed their services and they did not have to obtain a statement from their daughter's doctor verifying their need to be in Chicago. Miller Container ended the claimant's assignment because Miller Container expected the claimant and her husband to return to work on October 4. When they did not report to work or call on October 4, 5 or 8, Miller Container incorrectly concluded the claimant and her husband had quit. The claimant and her husband did not report to work or call the employer on October 4, 5 and 8.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts in this do not show that the claimant intended to quit the job assignment at Miller Container. Instead, the client ended the assignment as a result of miscommunication between the employer and the claimant.

Since the employer's representative, who talked to the claimant and her husband, did not participate in the hearing and the employer relied on that representative's notes, the claimant and her husband's testimony must be given more weight than the employer's reliance on unsupported hearsay information. As a result, the claimant's version of the events is stated in the Findings of Fact.

The claimant and her husband kept in regular contact with the employer when they were in Chicago. Initially, the claimant and her husband had authorization from Miller Container to be in Chicago. Problems developed when the employer incorrectly assumed the claimant would be back at work on October 4 when either she or husband told the employer on October 2 they would be back in a couple of days. Although the claimant and her husband went to the employer's office on October 5, they could not go back to Miller Container until they obtained a statement from their daughter's doctor. Unfortunately, this took time. While the claimant and her husband attempted to obtain this document, Miller Container did not know they had returned to Davenport on October 5. Miller Container informed the employer that the claimant and her

husband could not return to work because they had not reported to work or called for three consecutive workdays, October 4, 5 or 8.

Since the claimant and her husband took reasonable steps in keeping the employer informed about their daughter's situation and returned to Davenport in a reasonable time, the claimant did not commit work-connected misconduct. The employer did not have another job to assign the claimant when Miller Container ended her job assignment. Under the facts of this case, the claimant was discharged and became unemployed for nondisqualifying reasons. She is qualified to receive unemployment insurance benefits as of January 6, 2008. The employer's account may be charged for benefits paid to the claimant.

DECISION:

The representative's February 13, 2008 decision (reference 03) is reversed. The employer's client ended the claimant's work assignment for nondisqualifying reasons and the employer did not have another job to assign to her. The claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css