

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEVIN B KEMPER

Claimant

APPEAL NO. 14A-UI-06016-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC

Employer

OC: 05/11/14

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Kevin Kemper (claimant) appealed a representative's June 4, 2014 (reference 01) decision that concluded he was not eligible to receive unemployment insurance benefits because he voluntarily quit work with Team Staffing Solutions (employer). After hearing notices were mailed to the parties' last-known address of record, a telephone hearing was scheduled for July 3, 2014. The claimant participated personally and through Valerie Parker, former coworker. The employer participated by Sarah Fiedler, Human Resources Generalist.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary agency. The claimant was hired on January 20, 2014 as a full-time stock handler. He worked through January 21, 2014. On January 22, 2014 the claimant slipped on ice and was hit by a car. He did not appear for work or notify the employer of his absence due to his situation. On January 23, 2014 a former coworker left a voice mail for the employer to say the claimant would be absent for about three weeks recuperating from his injuries. The employer left a voice mail for the claimant asking him to call and work was available when he was ready to return. The claimant did not call the employer. The claimant did not see a doctor but was ready for work three weeks after the accident. He applied for unemployment insurance benefits with an effective date of May 11, 2014.

The next time the claimant's name appears on a sign-in sheet for work is on June 2, 2014. The claimant dropped by the employer's address about three weeks after the accident on an unknown date. The claimant also signed in at Temp Associates and that building is close to the employer's building. The claimant started a job at Midwest Precast on June 4, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code § 96.5-1 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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by the claimant's actions. The claimant stopped appearing for work and/or returning the employer's calls. It appears there was a lack of communication in this case. The claimant did not call the employer back as requested. Then the claimant returned but there is a question about whether the claimant returned to this employer or another temporary agency to write his name on the register. There was no evidence presented at the hearing of good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the employer's testimony to be more credible because claimant appeared to be confused at the hearing.

DECISION:

The representative's June 4, 2014 (reference 01) decision is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/can