

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DONYE V ROWAN
Claimant

APPEAL 21A-UI-10230-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

STAFF MANAGEMENT SOLUTIONS, LLC
Employer

**OC: 01/17/21
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
PL 116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Employer filed an appeal from the March 23, 2021 (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 25, 2021, at 3:00 p.m. Claimant did not participate. Employer participated through Susan Murphy, Senior Account Manager. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a discharge for disqualifying job-related misconduct or a voluntary quit without good cause attributable to employer.
Whether claimant was overpaid benefits.
Whether claimant should repay those benefits and/or whether employer should be charged based upon its participation in the fact-finding interview.
Whether claimant is eligible for Federal Pandemic Unemployment Compensation.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time Product Supply Technician at Proctor and Gamble through Staff Management Solutions, Inc. Employer is a temporary employment firm working exclusively with Proctor and Gamble. Employer offers no other assignments. Claimant worked for employer from May 12, 2020 until his employment ended on October 7, 2020. Claimant last performed work for employer on October 2, 2020. Claimant was scheduled to work October 4, 2020, but was absent due to illness. Claimant notified employer that he would be absent on October 4, 2020 prior to the beginning of his shift. Claimant was next scheduled to work October 5 – 7, 2020. Claimant was absent for all three shifts and did not notify employer that he would be absent.

Employer has a points-based attendance policy. Claimant received a copy of the policy and signed an acknowledgment of receipt on April 26, 2020. The policy states that employees must notify employer of absences prior to the beginning of their shifts by calling employer's staff management desk. The policy also states that two consecutive no-call/no-show absences will be considered a voluntary resignation of employment. After claimant's absence on October 7, 2020, employer considered his three no-call/no-show absences to be a voluntary resignation of employment.

The administrative record reflects that claimant has received no unemployment insurance benefits, since filing his original claim effective January 17, 2021. Employer did not participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

Here, employer's policy provides for separation of employment as a voluntary resignation after only two no-call/no-show absences. While the policy does not match the requirements of the administrative rule, claimant was absent for three consecutive shifts without notifying employer in violation of company rule. Inasmuch as claimant failed to report to work or notify employer for three consecutive shifts in violation of employer's policy, claimant is considered to have voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Because no benefits were paid to claimant, the issues of overpayment, repayment and chargeability are moot. Because claimant is not eligible for regular unemployment insurance benefits, claimant is also not eligible for Federal Pandemic Unemployment Compensation. See PL 116-136 §2104(B).

DECISION:

The March 23, 2021 (reference 02) unemployment insurance decision is reversed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. The issues of overpayment, repayment and chargeability are moot. Claimant is not eligible for Federal Pandemic Unemployment Compensation.



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July 15, 2021
Decision Dated and Mailed

acw/mh