

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PHYLLIS J WALKER
Claimant

APPEAL NO. 16A-UI-09992-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/03/16
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Team Staffing Solutions (employer) appealed a representative's September 12, 2016, decision (reference 02) that concluded Phyllis Walker (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 29, 2016. The claimant participated personally. The employer participated by Sarah Fiedler, Human Resources Generalist. Exhibit D-1 was received into evidence.

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 employment service. The claimant performed services from May 1, 2016, through June 17, 2016, and again on August 17, 2016.

She came back to work for the employer in August 2016, and interviewed for a placement with J. M. Eagle as a full-time operator on August 16, 2016. The claimant told in the interview that she was afraid of ladders. The interviewer showed the claimant the work she would be doing, grabbing items from waist level. The claimant started work on August 17, 2016. The claimant was placed at a different job. She was required to reach items over her head. She worked for eight hours on tiptoe in steel toed boots. The trainer commented on how short she was and told her they would bring her a ladder or a box to stand on. No accommodation was made. After the shift was over the claimant was sore from standing on her toes and reaching over her head for eight hours. She told the employer she could not work at the job because she would be prone to injury. The claimant asked for another job but no work was available.

The claimant filed for unemployment insurance benefits with an effective date of January 3, 2016. The employer participated at the fact-finding interview on September 9, 2016.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Admin. Code r. 871-24.26(23) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(23) The claimant left work because the type of work was misrepresented to such claimant at the time of acceptance of the work assignment.

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 her words and actions. She told the employer she was leaving and quit work.

When an employee quits work because the type of work was misrepresented to her when she accepted the assignment, her leaving is with good cause attributable to the employer. The claimant left work because she was not told what duties the job entailed. Her leaving was with good cause attributable to the employer. The claimant voluntarily quit with good cause attributable to the employer. The claimant is eligible to receive unemployment insurance benefits, provided she is otherwise eligible.

DECISION:

The representative's September 12, 2016, decision (reference 02) is affirmed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs