

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAKFIRE GOXHUF
Claimant

APPEAL NO: 12A-UI-02474-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 01/29/12
Claimant: Respondent (2/R)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 6, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had completed a temporary job assignment. The claimant did not respond to the hearing notice that was mailed on March 15, 2012. Since English is not the claimant's primary language, she did not understand that she was required to call the Appeals Section before the hearing to provide the phone number she could be contacted at for the hearing. The claimant did not participate at the March 28 hearing. Sarah Fiedler participated on the employer's behalf.

After the March 28 hearing had been closed and Fiedler had been excused, the claimant called the Appeals Section for the hearing. Based on the claimant's lack of understanding English, the hearing was reopened.

Another hearing was scheduled on April 11, 2012. The claimant was contacted for the hearing. Sarah Fiedler was again present for the hearing. An Albanian interpreter, Ms. Belay, was present at the hearing.

Before the hearing began, the claimant became disconnected from the conference call. The administrative law judge called the claimant's phone number and left a message for her to contact the Appeals Section immediately. The employer and interpreter were asked to remain available for a short time to give the claimant an opportunity to call back.

The claimant returned the administrative law judge's phone call. Before there was an opportunity to transfer the claimant to the administrative law judge, the administrative law judge was told that the claimant no longer wanted to participate in the hearing. The claimant also indicated she did not want to talk about this matter and wanted nothing to do with the hearing.

Based on the employer's March 28 testimony, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits, or did the employer discharge her for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary and temp-to-hire staffing agency. The claimant registered to work for the employer's clients in September 2005. The employer gave the claimant information that if she completed a job, she was to contact the employer within three days for another assignment.

The most recent job the employer assigned to the claimant began on October 26, 2011. This was a long-term assignment. When the claimant worked at this assignment, she complained to her on-site supervisor that she did not like the job and was not happy doing this work. The claimant did not contact the employer to ask about another assignment.

The client asked the employer to remove the claimant from this assignment because of the claimant's repeated complaints about not liking the job. When the employer told the claimant on October 31 she was no longer needed at the assignment, the claimant did not ask about another assignment.

The claimant went to the employer's office on November 9 and talked to the receptionist. The employer does not know what the claimant and receptionist talked about. When the claimant established her claim for benefits, she had not been assigned to another job.

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 evidence indicates the claimant initiated her employment separation by making repeated comments to the client that she was not happy doing the job she had been assigned to do. The claimant's failure to contact the employer and ask to be assigned to another job supports a conclusion that the claimant quit. Also, the claimant's failure to even ask the employer about a new assignment when she was told she would not have to go back to a job she did not like also supports the conclusion that the claimant quit this assignment because she did not like the job and was not happy doing that work. As of October 31, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits she may have received since January 29, 2012, will be remanded to the Claims Section to determine.

DECISION:

The representative's March 6, 2012 determination (reference 01) is reversed. The claimant initiated her voluntary quit by repeatedly telling her on-site supervisor that she did not like the job she had been assigned to do. The claimant quit for reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 31, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw