

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSIE A OCHANPAUGH**  
Claimant

**APPEAL NO. 10A-UI-11035-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ROBERT HALF CORPORATION**  
Employer

**OC: 12/27/09**  
**Claimant: Respondent (4-R)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the July 27, 2010, reference 01, decision that allowed benefits in connection with a June 18, 2010 separation. After due notice was issued, a hearing was held on September 21, 2010. Claimant participated. Kelly Sams, Division Director, represented the employer.

**ISSUE:**

Whether Ms. Ochanpaugh separated from the employer on June 18, 2010 for a reason that disqualifies her for unemployment insurance benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a staffing agency. The employer placed Ms. Ochanpaugh in a full-time temp-to-hire position at Wells Fargo Bank on February 23, 2010. On June 11, 2010, Ms. Ochanpaugh provided the employer, Robert Half Corporation, and the client business, Wells Fargo Bank, with written notice that she would be quitting effective June 25, 2010. Ms. Ochanpaugh decided to end the assignment because she found it insufficiently challenging. The employer accepted the written resignation and decided to end the assignment effective June 18, 2010, rather than allow Ms. Ochanpaugh to work to the end of her notice period. After Ms. Ochanpaugh submitted her written resignation to the employer, the Wells Fargo Bank supervisor(s) discussed with her the possibility of moving her to a different work project. Ms. Ochanpaugh assumed this meant that her notice of quit would be deemed withdrawn. But Ms. Ochanpaugh did not contact the employer, Robert Half Corporation, to withdraw her resignation.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

An employee will be considered to have left employment voluntarily when the employee gave the employer notice of an intention to resign and the employer accepted such resignation. 871 IAC 24.25(37).

Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation. 871 IAC 24.25(38).

On June 11, 2010, Ms. Ochanpaugh gave the employer advance notice of her resignation to be effective June 25, 2010. Ms. Ochanpaugh did not complete the assignment. Ms. Ochanpaugh had decided to leave the assignment for personal reasons because she did not find it challenging or sufficiently rewarding. The employer accepted the resignation, but elected to end the assignment on June 18, 2010. Effective June 25, 2010, Ms. Ochanpaugh voluntarily quit the assignment without good cause attributable to the employer. Effective June 27, 2010, Ms. Ochanpaugh is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Ochanpaugh for the period on or after June 27, 2010. Because the employer ended the assignment early, Ms. Ochanpaugh would be eligible for benefits for the week ending June 26, 2010, which fell within her the notice period she had provided to the employer. The employer's account may be assessed for benefits paid to Ms. Ochanpaugh for the week ending June 26, 2010.

Iowa Code section 96.3(7) provides that benefits must be recovered from a claimant who receives benefits and is later determined to be ineligible for benefits, even though the claimant acted in good faith and was not otherwise at fault. The overpayment recovery law was updated in 2008. See Iowa Code section 96.3(7)(b). Under the revised law, a claimant will not be required to repay an overpayment of benefits if all of the following factors are met. First, the prior award of benefits must have been made in connection with a decision regarding the claimant's separation from a particular employment. Second, the claimant must not have engaged in fraud or willful misrepresentation to obtain the benefits or in connection with the Agency's initial decision to award benefits. Third, the employer must not have participated at the initial fact-finding proceeding that resulted in the initial decision to award benefits. If Workforce Development determines there has been an overpayment of benefits, the employer will not be charged for the benefits, regardless of whether the claimant is required to repay the benefits.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received would constitute an overpayment. Accordingly, the administrative law judge will remand the matter to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

**DECISION:**

The Agency representatives July 27, 2010, reference 01, decision is modified as follows. Effective June 25, 2010, the claimant voluntarily quit the assignment without good cause attributable to the employer. Effective June 27, 2010, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to the claimant for the period on or after June 27, 2010. Because the employer ended the assignment early, the claimant would be eligible for benefits for the week ending June 26, 2010, which fell within her the notice period she had provided to the employer. The employer's account may be assessed for benefits paid to the claimant for the week ending June 26, 2010.

This matter is remanded to the Claims Division for determination of whether there has been an overpayment, the amount of the overpayment, and whether the claimant will have to repay the benefits.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/css