

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**KIMBERLY J GRIMM**  
Claimant

**APPEAL NO. 18A-UI-00438-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REMEDY TEMPORARY SERVICES INC**  
Employer

**OC: 10/29/17**  
**Claimant: Respondent (1R)**

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

**STATEMENT OF THE CASE:**

Remedy Temporary Services (employer) appealed a representative's January 4, 2018, decision (reference 06) that concluded Kimberly Grimm (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 February 2, 2018. The claimant participated personally. The employer participated by Kayla Jones, Personnel Supervisor. 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 to hire service. The claimant was assigned to perform services on December 4, 2017, at Techniplas as a machine operator. The claimant was asked to perform duties that were not in the job description. After working on December 5, 2017, the claimant called the employer and said the assignment would not work out. She had pain in her lower back and was fearful the job would cause her injury. The employer told the claimant it did not want her to return to the job.

After December 5, 2017, the claimant found the pain so intense that she had problems breathing and sleeping. She went to the doctor on December 12, 2017. The doctor prescribed medication. The claimant could not work and take the medication from December 12 to December 18, 2017. The claimant was able to return to work on December 19, 2017. On December 22, 2017, the claimant asked the employer for work but no work was available.

The claimant filed for unemployment insurance benefits with an effective date of October 29, 2017. She filled for an additional date on December 3, 2017. The employer participated personally at the fact finding interview on January 3, 2018, by Kayla Jones.

**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.

The issue of whether the claimant was able and available for work after December 5, 2017, is remanded for determination.

**DECISION:**

The representative's January 4, 2018, decision (reference 06) is affirmed. The claimant is eligible to receive unemployment insurance benefits, provided she is otherwise eligible.

The issue of whether the claimant was able and available for work after December 5, 2017, is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs