

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAMMY L STURTEVANT
Claimant

APPEAL 17A-UI-12769-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SECURITAS SECURITY SERVICES USA
Employer

**OC: 01/15/17
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the December 4, 2017, (reference 02) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 5, 2018. Claimant did not answer when contacted at the number provided and she did not participate. Employer participated through hearing representative Thomas Kuiper, human resources manager Meg Roth-Roffy, and scheduling manager Ashley Doy. Official notice was taken of the administrative record, including claimant's benefit payment history, with no objection.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a security officer from March 22, 2017, and was separated from employment around November 14, 2017.

When the employer hired claimant, she was hired to work in a temporary position, but the end date was unknown. When the employer hires an employee, they let the employee know that if they are in a temporary position, the employer will try to place the employee in another position when the temporary position ended. Claimant worked in the temporary position until it was finished on November 7, 2017. Around the beginning of November 2017, the employer became aware that the temporary job position claimant was working was going end on November 7, 2017. The employer communicated to claimant that the assignment was coming to an end.

The employer offered claimant three different positions, but she declined to accept each position. On November 14, 2017, claimant returned her uniforms to the branch office. Ms. Roth-Roffy again went over the job offers with claimant, but she told Ms. Roth-Roffy she would rather separate.

The administrative record reflects that claimant has not received unemployment benefits since her separation from this employer. The administrative record also establishes that the employer did participate in the fact-finding interview.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was not the result of a disqualifying reason. Benefits are allowed.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Iowa Admin. Code r. 871-24.26(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Iowa Admin. Code r. 871-24.26(22) 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:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable

assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

The employer hired claimant to work in a temporary position. Although the employer may have informed claimant it would try to place her in a different position, trying does not guarantee claimant any future employment with the employer when the position ends. Claimant worked in the temporary position until the job was completed. Claimant then declined to accept any other positions with the employer and decided to separate. Inasmuch as claimant completed the temporary job assignment with the employer that she was hired to work and she separated from the employer after that job assignment was completed, no disqualification is imposed. See Iowa Admin. Code r. 871-24.26(19) ("The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer."). Benefits are allowed.

It is also noted that the administrative record reflects an Unemployment Insurance Decision dated December 4, 2017, reference 03, was issued that found claimant was not eligible for benefits for refusing "to accept suitable work with SECURITAS SERVI." Unemployment Insurance Decision, dated December 4, 2017 (reference 03).

DECISION:

The December 4, 2017, (reference 02), unemployment insurance decision is affirmed. Claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs