

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PATRICK SUBDON**

Claimant

**APPEAL 21A-UI-15920-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REMEDY INTELLIGENT STAFFING INC**

Employer

**OC: 03/14/21**

**Claimant: Appellant (5)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

On July 19, 2021, Patrick Subdon (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated July 15, 2021 (reference 02) that disqualified claimant from unemployment insurance benefits based on a finding he voluntarily quit work on March 16, 2020 for personal reasons.

A telephone hearing was held on September 15, 2021. The parties were properly notified of the hearing. The claimant participated personally. Remedy Intelligent Staffing Inc (employer/respondent) participated by Franchise Owner Clint Martin. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a temporary employee. Claimant's first day of employment was September 18, 2018.

Claimant had an assignment beginning January 15, 2020, which ended on March 17, 2020 due to the pandemic. There were no further assignments available after that time until August 17, 2020. Claimant accepted an assignment at that time, which ended August 28, 2020. Claimant did request further assignment after that but cancelled the assignment for medical reasons. Claimant began another assignment on September 8, 2020 but he ended that assignment on September 9, 2020 due to medical reasons.

Claimant testified that he updated his availability online approximately two weeks later and called in to employer to request further assignment after that time, but is unsure when he did so. Employer has no record of claimant doing so. Employer documents such communications from

employees. Claimant's most recent assignment started May 25, 2021. Employer contacted claimant to offer him that assignment. Claimant is still on that assignment.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the decision dated July 15, 2021 (reference 02) that disqualified claimant from unemployment insurance benefits based on a finding he voluntarily quit work on March 16, 2020 for personal reasons is MODIFIED with no change in effect.

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. But the individual shall not be disqualified if the department finds that:

f. The individual left the employing unit for not to exceed ten working days, or such additional time as may be allowed by the individual's employer, for compelling personal reasons, if so found by the department, and prior to such leaving had informed the individual's employer of such compelling personal reasons, and immediately after such compelling personal reasons ceased to exist the individual returned to the individual's employer and offered the individual's services and the individual's regular or comparable work was not available, provided the individual is otherwise eligible; except that during the time the individual is away from the individual's work because of the continuance of such compelling personal reasons, the individual shall not be eligible for benefits.

Iowa Admin. Code r. 871-24.25 provides in relevant part:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not

required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). 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).

Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried her burden of proving the voluntary leaving was for good cause attributable to employer.

The administrative law judge finds claimant's separations from employment prior to September 9, 2020 were not disqualifying. However, the separation on September 9, 2020 was disqualifying. Claimant left employer for compelling personal reasons at that time. However, claimant has not established that he notified employer immediately after those circumstances ceased to exist and offered his services. Benefits must therefore be denied from the effective date of the claim.

**DECISION:**

The decision dated July 15, 2021 (reference 02) that disqualified claimant from unemployment insurance benefits based on a finding he voluntarily quit work on March 16, 2020 for personal reasons is MODIFIED with no change in effect. Claimant's separation from employment in March 2020 was not disqualifying. However, his separation on September 9, 2020 was disqualifying. Benefits must be denied from the effective date of the claim, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
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Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

September 20, 2021  
Decision Dated and Mailed

abd/mh

***Note to Claimant:***

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.