

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

OPHELIA JACKSON
Claimant

RANDSTAD US LLC
Employer

APPEAL 17A-UI-04588-JP-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/26/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 1, 2017, (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 17, 2017. Claimant participated. Employer participated through Markie Bacon.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a staffing agency. Claimant was hired by the employer on December 15, 2016. Claimant was employed temp-to-hire full-time as a picker packer last assigned at Excel Marketing from December 15, 2016, and was separated from the assignment on March 13, 2017. Claimant's last of day work was March 8, 2017. Ms. Bacon testified claimant was also separated from the employer on March 13, 2017.

On March 13, 2017, Ms. Bacon received an e-mail from Excel Marketing detailing that claimant left early on March 8, 2017 due to illness, then called off on March 9, 2017, had a previously scheduled day off on March 10, 2017, and she did not show up or call on March 13, 2017. Excel Marketing asked the employer if they had heard from claimant. The employer had not heard from claimant. The employer then called claimant on March 13, 2017, but it was unsuccessful in reaching her. On March 14, 2017, claimant returned the employer's phone call and she told the employer that her daughter was in a car accident in Illinois. Claimant's mother was with her daughter in the car accident and her mother passed away as a result of the accident. Ms. Bacon testified that claimant was stuck in a snow storm, but she thought she could return to work by March 20, 2017. Ms. Bacon then e-mailed Excel Marketing and informed them of the situation and that claimant should be returning by the end of the week or by March 20, 2017. Ms. Bacon testified that had claimant returned on March 20, 2017, she would have been allowed to return to work for Excel Marketing. Claimant did not return by March 20, 2017. The week of March 20, 2017, the employer attempted to contact claimant to

see if she was coming back, but it was unsuccessful in reaching her. On March 16, 24, and 29, 2017, April 10, 2017, and May 9, 2017, the employer sent claimant e-mails about job openings, but she did not respond to the e-mails.

Between March 20, 2017 and May 15, 2017 there was no contact from claimant. The next time the employer heard from claimant was on May 15, 2017. Claimant called the employer on May 15, 2017 to see if the employer had any positions available for her. The employer had a position available for claimant, but its pay rate was less than what claimant wanted.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer. Benefits are denied.

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.

Iowa Admin. Code r. 871-24.25(20) provides:

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.

Iowa Admin. Code r. 871-24.25(23) provides:

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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). An employer is entitled to expect its employees to report to

work as scheduled or to be notified when and why the employee is unable to report to work. On March 14, 2017, claimant told the employer she would return to work by March 20, 2017; however, claimant did not return to the employer until May 15, 2017. After March 14, 2017, claimant did not contact the employer or respond to the employer's attempts to contact her until May 15, 2017. Claimant's failure to report for work or contact the employer for over a month renders the separation job abandonment without good cause attributable to the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

DECISION:

The May 1, 2017, (reference 04) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/scn