

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY L KINKADE
Claimant

APPEAL NO: 11A-UI-04314-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMPS NOW HEARTLAND LLC
Employer

**OC: 01/30/11
Claimant: Respondent (2/R)**

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 28, 2011 determination (reference 04) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Cary Miller, a representative with Personnel Planners, Inc., represented the employer. Mary Burkett testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant registered to work for the employer in June 2010. The employer assigned him to a job on June 8. The last day the claimant worked at this assignment was July 24, 2010. The claimant was scheduled to work after July 24 and there was continuing work for him at this assignment. Even though Burkett called the claimant on July 27, he did not return her call. The claimant did not have any contact with the employer after July 24, 2010.

The claimant established a claim for benefits during the week of January 30, 2011.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The facts show the claimant quit this employment by abandoning it. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant may have had personal reasons for failing to return to work or contacting the employer after July 24. The evidence does not establish that he quit for reasons that qualify him to receive benefits. As of July 25, 2010, the claimant is not qualified to receive benefits.

If the claimant earns ten times his weekly benefits between July 25, 2010, and January 30, 2011, he must show proof of these earnings to his local Workforce office to establish that he has earned requalifying wages.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's March 28, 2011 determination (reference 04) is reversed. The claimant voluntarily quit his employment by abandoning it after July 24, 2010. The claimant quit, but did not establish he quit for reasons that qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of July 25, 2010. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs