

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KANYERE MUSHEGERA**  
Claimant

**APPEAL NO. 15A-UI-00335-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REMEDY INTELLIGENT STAFFING INC**  
Employer

**OC: 12/14/14**  
**Claimant: Respondent (2/R)**

Section 96.5(1) – Voluntary Quit  
Section 96.3(7) – Benefit Overpayment

**STATEMENT OF THE CASE:**

Remedy Intelligent Staffing Inc. filed a timely appeal from a representative's decision dated January 6, 2015 (reference 01) which held claimant eligible to receive unemployment insurance benefits, finding that the employer did not provide sufficient evidence to establish misconduct on the part of the claimant. After due notice was provided, a telephone hearing was held on February 25, 2015. Although duly notified, the claimant did not respond to the notice of hearing and did not participate. The employer participated by Ms. Emily Martin, Staff Consultant.

**ISSUE:**

At issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: The claimant was employed by Remedy Intelligent Staffing Inc. from July 23, 2014 until November 23, 2014 when she voluntarily left the employment to provide child care. Ms. Mushegera was most recently employed to work as a general laborer at a General Mills facility and was being paid by the hour. Although the claimant had regular employment on the company's third shift, Ms. Mushegera quit her third shift assignment citing child care as the reason; reflected in Remedy Intelligent Staffing Inc.'s records. Work continued to be available to the claimant at the time of her leaving.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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(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 § 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 § 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.

In general a voluntary quit means discontinuing the employment because the employee no longer desires to remain in a relationship of an employee with the employer for whom the employee has separated. 871 IAC 24.25. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of domestic responsibility or child care is not good cause. 871 IAC 24.25(23).

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code Section 96.6-2. In the case at hand, company records reflect that continuing work was available to the claimant but that the claimant chose to voluntarily leave her employment assignment at the General Mills location where she was working for Remedy Intelligent Staffing Inc. because she no longer wished to work on the third shift due to child care responsibilities.

There being no evidence to the contrary, the administrative law judge concludes that the claimant voluntarily left the employment without good cause attributable to the employer. Therefore, the claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and she is otherwise eligible.

Because the claimant has been deemed ineligible for benefits, any benefits the claimant has received could constitute an overpayment. Accordingly, the issue of whether the claimant has been overpaid unemployment insurance benefits and, if so, the amount of the overpayment should be paid by the claimant or found chargeable to the employer based upon the employer's participation in the fact finding is remanded to the Claims Division.

**DECISION:**

The representative's decision dated January 6, 2015 (reference 01) is reversed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, and she is otherwise eligible. The issue of whether the claimant has been overpaid unemployment insurance benefits and, if so, whether the claimant is liable to repay the overpayment or the employer should be charged based upon the employer's participation in the fact finding is remanded to the Claims Division for investigation.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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