

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHEYENNE COEN-JOHNSON
Claimant

APPEAL 17A-UI-05791-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC
Employer

**OC: 05/07/17
Claimant: Respondent (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(27) – Quit Rather Than Perform Assigned Work
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 May 26, 2017 (reference 03) unemployment insurance decision that allowed benefits based upon a determination that claimant did not quit but was discharged due to absences that were caused by illness and were properly reported. The parties were properly notified of the hearing. A telephone hearing was held on June 19, 2017. The claimant, Cheyenne Coen-Johnson, did not register a telephone number at which to be reached and did not participate in the hearing. The employer, Remedy Intelligent Staffing, Inc., participated through Vicky Matthias, Senior Staffing Consultant. The administrative law judge took official notice of the administrative record.

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, most recently as a Production Woodworker, from April 5, 2017, until May 8, 2017, when she quit. Prior to claimant's final day of employment, she had been absent due to some domestic issues. Matthias testified that she had been working with claimant's job placement site to help preserve her employment. On May 8, claimant reported to work, clocked in, and almost immediately thereafter she left the premises. Claimant did not tell anyone why she was leaving, and she has not contacted the employer since she walked out. Matthias testified that the employer has attempted to reach out to claimant via texting, email, and telephone, and none of its messages have been returned. Continued work was available for claimant, had she not quit her job.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$0.00, since filing a claim with an effective date of May 26, 2017. The administrative record also establishes that the employer did not participate in the fact-finding.

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.

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 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:

(27) The claimant left rather than perform the assigned work as instructed.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Here, claimant did not participate in the hearing, and there is no evidence that the average employee in claimant's situation would have felt similarly compelled to quit. 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).

Claimant walked out of work on May 8, and she never returned or contacted the employer after that day. Claimant's separation from employment was without good cause attributable to the employer. Benefits are withheld. However, as claimant has not received any benefits since her separation, the issues of overpayment, repayment, and chargeability are moot.

DECISION:

The May 26, 2017 (reference 03) unemployment insurance decision is reversed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The issues of overpayment, repayment, and chargeability are moot.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs