

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY BRASE
Claimant

APPEAL NO. 09A-UI-10463-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

**Original Claim: 06/21/09
Claimant: Appellant (1)**

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Kimberly Brase (claimant) appealed an unemployment insurance decision dated July 17, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Team Staffing Solutions, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 7, 2009. The claimant participated in the hearing. The employer participated through Sarah Fiedler, Claims Administrator. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on January 8, 2009 and was placed in a temp-to-hire position at Heinz. She was working through the training program to be hired. Her last day of work was June 12, 2009. The claimant was absent due to illness on June 13, 15, and 16, 2009. She returned to the employer on June 17, 2009 and provided a medical excuse for these dates. Heinz excused those dates and the claimant was expected to be at work on the afternoon of June 17, 2009, but she later called in and said she did not feel well so did not work.

The claimant was a no-call/no-show on June 18, 19 and 20, 2009. Heinz contacted the employer on June 22, 2009 and stated it wanted the claimant removed from the assignment due to her absences. The claimant returned to the employer later on that same day and provided a medical excuse for June 18 and 19, 2009. The employer offered the claimant work on June 22, 2009, at 10:17 a.m. for a job in West Branch, Iowa, with orientation that afternoon. The claimant returned the call to the employer at 10:58 a.m. and accepted the assignment, so arrangements

were made for her to begin orientation at 3:00 p.m. The claimant never called or reported to orientation and the employer did not hear from her again until July 24, 2009

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to report for orientation on June 22, 2009 and not calling the employer. She contends she called the employer, but the employer's testimony is found more reliable, since the employer was relying on written documentation made at the time of the incident. The claimant was relying on memory but was unable to accurately remember her hire date.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated July 17, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw