

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA S. NICHOLS

Claimant

APPEAL NO: 17A-UI-07055-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC

Employer

OC: 06/11/17

Claimant: Respondent (1)

Iowa Code section 96.5(1) – Voluntary Leaving
871 IAC 24.26(22) – Voluntary Leaving
Iowa Code section 96.5-1-j – Reassignment from Employer

STATEMENT OF CASE:

The employer filed a timely appeal from the July 7, 2017, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 28, 2017. The claimant participated in the hearing. Julie Coughlin, Branch Manager, participated in the hearing on behalf of the employer. Employer's Exhibits One and Two were admitted into evidence.

ISSUE:

The issues are whether the claimant voluntarily left her employment and whether she sought reassignment from the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time tax professional for Remedy Intelligent Staffing last assigned to Tax Act from November 28, 2016 to April 18, 2017. The claimant's assignment ended due to the conclusion of tax season.

The claimant worked for this client only for the last nine tax seasons and did not have any other assignments from the employer. Some years the client asked a few staff members to stay on past the tax deadline and other years it asked more staff members to remain. The claimant had stayed beyond the tax deadline on occasion in the past, working until the beginning or end of May.

On March 30, 2017, the client sent an email to all staff members asking if they wanted to work after April 18, 2017. The email stated in part, "We keep a number of staff through April and then a few through May. Based on your work this last season we would be interested in having each of you work through May" (Employer's Exhibit One). The claimant responded by email April 3, 2017, stating, "For this year we have plans after tax season, so I will not be able to work after the 18th (Employer's Exhibit Two). The claimant was experiencing medical issues and needed

to undergo testing she had put off until after tax season and did not believe it would be fair to the client to have to schedule around her medical appointments and tests.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's separation was not disqualifying.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. 871-24.26(19) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Iowa Admin. Code r. 871-24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

Iowa Code section 96.5(1)j provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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. But the individual shall not be disqualified if the department finds that:

j. (1) The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

(2) To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

(3) For the purposes of this paragraph:

(a) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

At the time of hire the claimant knew she would be working through April 18, 2017, but did not know if she would be asked to stay longer because it depended on how busy the employer was at the end of the tax season. She committed to working through April 18, 2017, and did so but due to health issues she needed to take care of, she declined the client's further offer of work. Consequently, the administrative law judge concludes the claimant completed the contract of hire but declined to extend the assignment. Her actions were a voluntary quit with good cause attributable to the employer.

The claimant had worked for this one client for the past nine tax seasons. She went through the employer because that was how Tax Act hired its seasonal employees. The employer understood the situation and did not expect the claimant would seek further reassignment until the next tax season began. Under these circumstances, the administrative law judge finds the claimant completed the contract of hire and chose not to seek another assignment. If another assignment was offered to the claimant by the employer, the issue of a refusal of suitable work would be adjudicated at that time. Therefore, benefits are allowed.

DECISION:

The July 7, 2017, reference 01, decision is affirmed. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn