

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA V TOVAR
Claimant

APPEAL NO: 11A-UI-14574-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMEDY INTELLIGENT STAFFING INC
Employer

OC: 10/09/11

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Maria V. Tovar (claimant) appealed a representative's November 7, 2011 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Remedy Intelligent Staffing, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 5, 2011. The claimant failed to respond to the hearing notice and provide a telephone number at which she could be reached for the hearing and did not participate in the hearing. Abby Bates appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a temporary employment firm. The claimant's first and only assignment with the employer began on July 7, 2011. She worked on the second shift as a laborer at the employer's Iowa City, Iowa business client; at the time, the claimant lived in Iowa City. She was to work on the assignment on an ongoing basis for 1000 hours. Her last day on the assignment was on or about August 29, 2011. After work on August 29 the claimant informed the employer that her employment would end as of the end of that week; however, the claimant called in absences most if not all of the remaining days that week.

The claimant indicated that she was leaving the assignment because she was moving to northern Iowa to provide care for her son who was ill. No information was provided as to the son's age or condition, or whether the son's doctor had indicated care was required. The claimant had only completed about 273 hours of her expected 1000 hours on the assignment when she left the assignment. The claimant's current address is now in Storm Lake, Iowa.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. Bartelt v. Employment Appeal Board, 494 N.W.2d 684 (Iowa 1993); Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving to move to another locality is not good cause attributable to the employer. 871 IAC 24.25(2). Leaving due to serious family responsibilities is a good personal reason but is not attributable to the employer. 871 IAC 24.25(20, 23). There are instances where leaving to care for a sick family member could be attributed to the employer, but only where the claimant establishes that the reason for leaving was for the “necessary and sole purpose of taking care of a member of the claimant’s immediate family who was ill or injured, and after that member of the claimant’s family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available.” 871 IAC 24.26(8). The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative’s November 7, 2011 decision (reference 02) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of August 29, 2011, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css