

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAYE M FLOMO
Claimant

APPEAL NO: 11A-UI-02038-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 12/26/10
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Saye M. Flomo (claimant) appealed a representative's February 15, 2011 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Team Staffing Solutions, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 15, 2011. The claimant participated in the hearing. Sarah Fiedler appeared on the employer's behalf. 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:

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 began taking assignments with the employer on June 7, 2010. Her most recent assignment began on October 4, 2010, working full time as a production laborer. Her last day on the assignment was October 5, 2010. Although the assignment was intended to be ongoing, the claimant's work on the assignment ended that day because she was injured in a car accident after work on October 5. On October 6 she called the employer to report she would be unable to continue on the assignment due to her injuries, and would be off work for about a week. The employer advised the claimant to recontact the office for reassignment when she was recovered and became available for work. The claimant did not recontact the employer for work until December 1, 2010. She did not explain why she did not seek to return in a week as compared to almost two months; she did not establish that her doctor did not release her for work until that time.

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 for a compelling personal reason will still result in disqualification if the absence from employment was more than ten days. 871 IAC 24.25(20). Leaving work for a non-work-related injury is disqualifying unless the claimant establishes that upon her recovery she then sought to return to work with the employer. 871 IAC 24.25(35). Here it appears that the claimant waited almost seven weeks after her presumed recovery to seek to return to work. The claimant has not satisfied her burden. Benefits are denied.

DECISION:

The representative's February 15, 2011 decision (reference 02) is affirmed as modified with no effect on the parties. The claimant voluntarily left her employment without good cause attributable to the employer. As of October 6, 2010, 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/pjs