

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LAMAR J MULLEN**  
Claimant

**APPEAL NO: 11A-UI-02770-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**USA STAFFING INC**  
Employer

**OC: 01/02/11**  
**Claimant: Appellant (4/R)**

Iowa Code § 96.5(1) – Voluntary Quit

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 3, 2011 determination (reference 03) that disqualified him from receiving benefits as of January 13, 2011, and held the employer's account exempt from charge because he voluntarily quit for reasons that do not qualify him to receive benefits. The claimant responded to the hearing notice, but when he was called for the hearing the message on his phone stated, "not receiving calls at this." The claimant did not contact the Appeals Section to participate in the hearing. Dan Garcia, the area manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge finds the claimant is not qualified to receive benefits as of February 6, 2011.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant registered to work for the employer in July 2009. The employer assigned the claimant to a job at a business, GEA, that started on November 18, 2010.

GEA placed the claimant on a short-term layoff from approximately January 13 through 25, 2011. When the claimant went to the employer's office on January 27 the employer told him to go back to work at GEA. The claimant went back to work at GEA. His last day of work was February 4, 2011. GEA scheduled the claimant to work on February 7, but the claimant did not call or report to work. Even though GEA had continued work for the claimant, if he did not report back to work on February 8, GEA did not want him back. The employer tried to contact the claimant on February 7, but was not successful. The claimant did not return to work after February 4, 2011.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). The evidence does not establish the claimant quit his assignment on January 13; instead he was placed on a short-term layoff and returned to the job assignment in late January or early February. The claimant did not return to work at this assignment after February 4 even though his work assignment had not been completed. The claimant was scheduled to work after February 4 at GEO but he did not call or report to work after February 4. The evidence suggests the claimant quit after February 4, 2011, by abandoning his assignment. A claimant has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

While the claimant may have had compelling reasons for failing to return to his assignment at GEO, he did not establish that he quit for reasons that qualify him to receive benefits. As of February 6, the claimant is not qualified him to receive benefits. The claimant is eligible to receive benefits during the time he was on a short-term layoff.

The claimant has received benefits since February 6, 2011. The issue of overpayment is remanded to the Claims Section to determine. Also, based on the evidence there is a potential issue of whether the claimant properly reported wages he earned since January 2, 2011. This issue will also be remanded to the Claims Section to determine.

## DECISION:

The representative's March 3, 2011 determination (reference 03) is modified in the claimant's favor. The claimant did not quit his employment as of January 13, 2011. Instead, he quit his employment when he failed to return to continuing work after February 4, 2011. Therefore, as of February 6, 2011, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged as of February 6, 2011. As a result of being disqualified from receiving benefit as of February 6, an issue of overpayment is **Remanded** to the Claims Section to determine. An issue of whether the claimant properly reported his wages as of January 2, 2011, is also **Remanded** to the Claims Section to investigate.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css