

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KATIE R CLEMENS**

Claimant

**APPEAL NO. 09A-UI-18074-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MEDICAL STAFFING NETWORK INC**

Employer

**OC: 10/04/09**

**Claimant: Respondent (3)**

871 IAC 24.1(113) – Other Separation

**STATEMENT OF THE CASE:**

Medical Staffing Network, Inc. filed a timely appeal from a representative's decision dated November 24, 2009, reference 06, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was scheduled for and held on December 31, 2009. Although the claimant was duly notified, there was no participation by Ms. Clemens. The employer participated by Mr. Tom Kuiper, Hearing Representative, and Ms. Lisa Han, Office Manager.

**ISSUE:**

The issue is whether the claimant's separation on July 26, 2009 disqualified the claimant from receiving unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Katie Clemens was last employed as a certified nursing assistant for Medical Staffing Network, Inc. on July 3, 2009 when she completed a work assignment at a client location. The claimant complied with providing a notice to the employer that the assignment had ended and no further work was available to the claimant on the next working day.

Subsequently, the temporary service contacted Ms. Clemens to have her update her certification so that the claimant could be given other work assignments in the future when they became available. Although Ms. Clemens indicated that she would provide the certification to Medical Staffing Network, Inc., she did not do so within the time frame that was given to her by the temporary employer.

Because the claimant's certification was not current, the temporary employer determined that as of July 26, 2009, Ms. Clemens was not eligible for additional assignments by the company until proper certification had been supplied.

On July 26, 2009, the claimant was not performing services for Medical Staffing Network, Inc. and had not refused any work assignments as of that date. Because the claimant failed to meet the employer's certification requirements, she was removed from employability with the temporary service as of that date.

#### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes that the claimant was separated from employment under disqualifying conditions. It does not.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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 Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
  - a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

Here, the evidence in the record establishes that the claimant last worked for this employer on July 3, 2009 when she completed a temporary medical assignment at a client employer location. Ms. Clemens complied with the requirement that she make the temporary employment service

aware that the assignment had ended. No additional work was available to the claimant that day or the next working day with Medical Staffing Network, Inc. Later the temporary Medical Staffing Network, Inc. contacted Ms. Clemens to have the claimant update her certification so the claimant would be eligible to be assigned by Medical Staffing Network, Inc. to client employers in the future. When the claimant did not provide the required certification by July 26, 2009, the company removed the claimant's name from the list of potential employees for future assignments. The claimant was not offered nor did the claimant refuse an offer of work on that date. The claimant remained on layoff status at that time as she had completed the most recent work assignment through the company and no further work was available at the time that assignment had ended on July 3, 2009.

871 IAC 24.1(113) generally classifies termination from employment as layoffs, quits, discharges or other separations. Subsection d provides that termination from employment for reasons such as military duty, retirement, permanent disability or failure to meet standards is classified as other separations. Because the evidence in the record establishes that the claimant had not intentionally quit her job nor had the claimant been discharged from a current assignment, the administrative law judge concludes that the claimant's removal from the employer's list of potential candidates for assignment be classified as an other separation that took place for no disqualifying reason.

**DECISION:**

The representative's decision dated November 24, 2009, reference 06, is affirmed as modified. The portion of the determination finding the claimant separated for no disqualifying reason is affirmed. Claimant's separation did not take place due to voluntary quitting or intentional misconduct but due to failure to meet the employer's standard for future employment.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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