

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**IHLAM ABDELKARIM**  
Claimant

**REMEDY INTELLIGENT STAFFING INC**  
Employer

**APPEAL NO. 20A-UI-07381-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Appellant (3)**

Iowa Code Section 96.5(1) – Voluntary Quit  
Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

Ihlam Abdelkarim filed a timely appeal from the June 29, 2020, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Abdelkarim voluntarily quit on April 19, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on August 7, 2020. Ms. Abdelkarim participated. Aurea Nigaglioni, Senior Staffing Consultant, represented the employer. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, KPYX and WAGE-A.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.  
Whether the claimant was able to work and available for work within the meaning of the law during the period of April 19, 2020 through July 11, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Ihlam Abdelkarim began her employment with Remedy Intelligent Staffing, Inc. in May 2019 and worked in a full-time, long-term assignment at Oral B until April 17, 2020. At that time, Ms. Abdelkarim left the employment because she was scared about COVID-19. Ms. Abdelkarim has not been exposed to COVID-19 and has not been sick with COVID-19. The employer continued to have the same full-time work available for Ms. Abdelkarim. Ms. Abdelkarim does not have any health issues that would place her at increased risk of getting COVID-19 or that would increase the severity of the illness if she did get it. Ms. Abdelkarim did not get tested for COVID-19.

When Ms. Abdelkarim ceased appearing for work in the assignment, and the employer made several attempts to reach Ms. Abdelkarim during the week that followed. Ms. Abdelkarim eventually made contact with the employer to indicate that she was not feeling well and would return to the employment when she felt better. By the time Ms. Abdelkarim made contact with the employer, she had already been absent for three or more shifts without contacting the

employer and the employer had already concluded she had voluntarily quit under the employer's no-call/no-show policy.

Though Ms. Abdelkarim cites a concern about COVID-19 as the basis for her leaving that full-time employment with Remedy, Ms. Abdelkarim continued to work part-time at a daycare.

Ms. Abdelkarim established a claim for benefits that was effective April 19, 2020. Iowa Workforce Development set her weekly benefit amount at \$404.00. Ms. Abdelkarim made weekly claims for 12 weeks between April 19, 2020 and July 11, 2020 and received partial benefits for each of the nine weeks between April 19, 2020 and June 20, 2020. During that time, Ms. Abdelkarim reported weekly wages from the part-time daycare employment that ranged from \$200.00 to \$362.00. IWD also paid Federal Pandemic Unemployment Compensation benefits to Ms. Abdelkarim for each of the nine weeks between April 19, 2020 and June 20, 2020.

In July 2020, Remedy reached out to Ms. Abdelkarim to see whether she would be interested in returning to the Oral B assignment. On July 6, 2020, Ms. Abdel accepted an offer of employment and returned to work for Remedy effective July 19, 2020.

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

Iowa Code section 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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992).

Iowa Admin. Code r. 871-24.26(2) 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:

(2) The claimant left due to unsafe working conditions.

Iowa Admin. Code r. 871-24.25 (4) and (21) provides:

Voluntary quit without good cause. 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. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following

reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

...

(21) The claimant left because of dissatisfaction with the work environment.

The evidence in the record establishes an April 17, 2020 voluntary quit without good cause attributable to the employer. The evidence fails to establish that the work environment at the Oral B facility was unsafe or that there was any other good cause basis for Ms. Abdelkarim's decision to leave the employment. Ironically, Ms. Abdelkarim elected to remain in her second, part-time employment at the daycare, where a reasonable person would expect communicable viruses would be more easily transmitted. Ms. Abdelkarim's decision to leave the Oral B assignment and the Remedy employment amounted to dissatisfaction with the work environment. In addition, Ms. Abdelkarim's sudden departure from the workplace included three or more days wherein she was absent without notice to the employer. Ms. Abdelkarim is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. Ms. Abdelkarim must meet all other eligibility requirements. The employer's account shall not be charged for benefits that are based on work performed on or before April 17, 2020.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean

that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

The weight of the evidence indicates that Ms. Abdelkarim was able to work, but not available for work within the meaning of the law during the 12 weeks between April 19, 2020 and July 11, 2020. During that entire time, Ms. Abdelkarim unduly restricted her availability for work out of fear of COVID-19, elected not to return to full-time work that was readily available to her, and elected instead to restrict herself to part-time work. For this second reason, Ms. Abdelkarim is not eligible for benefits for the period beginning April 19, 2020 through the benefit week that ended July 11, 2020.

#### DECISION:

The June 29, 2020, reference 01, decision is modified adverse to the claimant as follows. The claimant voluntarily quit on April 17, 2020 without good cause attributable to the employer. . Based on the voluntary quit, the claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account will not be charged. The claimant did not meet the availability requirement during the 12 weeks between April 19, 2020 and July 11, 2020 and for this second reason is not eligible for benefits for the 12 weeks between April 19, 2020 and July 11, 2020.

This matter is remanded to the Benefits Bureau for entry or overpayment decisions regarding the regular benefits and Federal Pandemic Unemployment Compensation that IWD paid to the claimant for nine weeks between April 19, 2020 and June 20, 2020.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. *If this decision becomes final or if you are not eligible for Pandemic Unemployment Assistance (PUA), you will have an overpayment of benefits that you will be required to repay.* Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



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James E. Timberland  
Administrative Law Judge

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August 14, 2020  
Decision Dated and Mailed

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