

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A ZINTZ
Claimant

APPEAL NO. 10A-UI-08873-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 05/16/10
Claimant: Respondent (2-R)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The employer, Team Staffing, filed an appeal from a decision dated June 17, 2010, reference 02. The decision allowed benefits to the claimant, Julie Zintz. After due notice was issued a hearing was held by telephone conference call on August 9, 2010. The claimant participated on her own behalf. The employer participated by Claims Coordinator Sarah Fiedler.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

Julie Zintz was employed by Team Staffing from December 26, 2006 until November 3, 2009. Her last assignment was at Alaniz beginning October 13, 2009. When Ms. Zintz got off work after her night shift ended on November 3, 2009, she went to the emergency room at the hospital for back problems. This was a non-work-related condition. The doctor at the emergency room told her she should not work for two weeks and Ms. Zintz notified Blake Radel, the general manager of the Mount Pleasant, Iowa, office, about the situation. Ms. Radel told her she would have to be replaced at Alaniz because the assignment was ongoing. But Ms. Radel said for her to bring in a doctor's note when she was able to return to work and the office would try to place her.

Approximately one week later, before the two-week recuperation period had ended, Ms. Zintz moved out of town and never contacted Team Staffing again. She had moved back to the Mount Pleasant, Iowa, area in May 2010, but did not contact Team Staffing at that time nor did she ever provide a doctor's note releasing her to return to work.

Julie Zintz has received unemployment benefits since filing a claim with an effective date of May 10, 2010.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(10) 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:

(10) The claimant left employment to accompany the spouse to a new locality.

The claimant was off work for two weeks on doctor's orders but never contacted the employer as requested with a release to return to work. Before the two-week period was up she moved out of town and severed her work relationship with Team Staffing. Under the provisions of the above Administrative Code section, this is a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

DECISION:

The representative's decision of June 17, 2010, reference 02, is reversed. Julie Zintz is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs