

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**EVERLINA ORR**  
Claimant

**TEMP ASSOCIATES IOWA INC**  
Employer

**APPEAL 21A-UI-14587-AD-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/04/21**  
**Claimant: Appellant (2)**

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Iowa Code § 96.5(2)A – Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(1)J – Temporary Employment

**STATEMENT OF THE CASE:**

On June 25, 2021, Everlina Orr (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 21, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on November 20, 2020 for reasons not caused by employer.

A telephone hearing was held on August 20, 2021. The parties were properly notified of the hearing. Claimant participated personally. Temp Associates-Iowa Inc. (employer/respondent) did not register a number for the hearing or participate.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation from employment disqualifying?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer in 2017. Claimant's most recent assignment began on July 13, 2020. Claimant continued in that assignment until it ended on November 20, 2020 due to no further work being available. Shortly thereafter claimant requested further assignment from employer but none was offered. Claimant has not communicated to employer an intent to resign.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons set forth below, the decision dated June 21, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on November 20, 2020 for reasons not caused by employer is REVERSED.

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.

*j.* (1) The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

(2) To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

(3) For the purposes of this paragraph:

(a) "*Temporary employee*" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their workforce during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(b) "*Temporary employment firm*" means a person engaged in the business of employing temporary employees.

Iowa Admin. Code r. 871-24.26 provides in relevant part:

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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under

this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

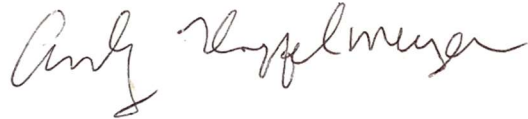
"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The administrative law judge finds claimant has not resigned and did request further assignment from employer shortly after the most recent assignment ended. The separation from employment was therefore not disqualifying.

**DECISION:**

The decision dated June 21, 2021 (reference 01) that denied benefits based on a finding claimant voluntarily quit work on November 20, 2020 for reasons not caused by employer is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible.



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Andrew B. Duffelmeyer  
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August 24, 2021

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Decision Dated and Mailed

abd/kmj