

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MIKE R WHIPPIE  
1716 BANDAG DR APT 208  
MUSCATINE IA 52761**

**TEAM STAFFING SOLUTIONS INC  
109 LAKE PARK BLVD  
MUSCATINE IA 52761**

**Case No. 21IWDUI0123**

**APPEAL 20A-UI-09775**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APPEAL RIGHTS:**

**This Decision Shall Become Final**, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
or  
Fax (515) 281-7191***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

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**ONLINE RESOURCES:**

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>

Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MIKE R WHIPPIE**  
Claimant

**TEAM STAFFING SOLUTIONS INC**  
Employer

**APPEAL 20A-UI-09775**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20<sup>1</sup>**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the August 14, 2020 (reference 04) unemployment insurance decision denying benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 1, 2020. The claimant, Mike Whippie, participated personally. Risk Manager Sarah Fiedler represented the employer, Team Staffing Solutions Inc (Team Staffing). The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records including the fact-finding documents.<sup>2</sup>

**ISSUES:**

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

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

Team Staffing is an employment agency with an office in Muscatine, Iowa. Whippie first registered with Team Staffing in January 2019. He worked for two separate employers through Team Staffing in 2019, from January to March, and briefly in September.

Whippie returned to Team Staffing in late March or early April 2020. On Thursday, April 2, 2020, Team Staffing placed him in an assembly line position with SFS Intec Corporation (SFS) in Durant, Iowa. The SFS position was full-time, from 5:00 a.m. to 3:00 p.m., Monday through Thursday.

Whippie worked for SFS as scheduled on April 2, and April 6, 2020. On April 7, 2020, he began to feel ill, and left his shift early. He went to a local emergency department and was tested for the novel coronavirus. Emergency department personnel told Whippie to quarantine for fourteen

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<sup>1</sup> This date is incorrect. Whippie in fact applied on April 8, 2020.

<sup>2</sup> Two exhibits submitted by the claimant, a text message stream between him and a Team Staffing employee, and a statement from a Unity Point physician, were excluded from the record due to the fact the claimant did not provide copies to Team Staffing prior to the hearing.

days pending the results of his test.

Whippie called his group leader at SFS the following morning (April 8, 2020), and told him of his need to quarantine. The group leader then called Team Staffing. Whippie testified credibly that a Team Staffing representative sent Whippie a text message later that morning indicating SFS was planning to lay off workers anyway, so there would be no need to return to that position. Whippie applied for unemployment benefits shortly thereafter.

Whippie subsequently learned that his test results were negative. He nevertheless did not contact Team Staffing to indicate he was available for a new assignment until April 27, 2020. Team Staffing placed him in two “project-based” positions on May 1, and 2, 2020. On June 2, 2020, Team Staffing placed Whippie in a full-time, long-term position with the parks and recreation department of the City of Muscatine. Whippie worked two full days on this job, and called in absent on each of two additional days. On June 8, 2020, Whippie formally told Team Staffing he was quitting the City of Muscatine assignment due to the fact he had accepted a full-time position with another company. He remains employed by this new company to date.

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

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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 § 96.5(1) (2019). Section 96.5(2)(a) provides in turn:

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.

Iowa Code § 96.5(2)a (2019). First it must be determined whether Whippie quit or was discharged from employment. The employee bears the burden to meet the basic eligibility requirements under Iowa Code § 96.4. It is the employer’s burden to prove the claimant is disqualified for benefits pursuant to § 96.5(2)a. In the case of a voluntary quit, the employee must prove he or she quit with good cause attributable to the employer. Iowa Code § 96.6(2) (2019).

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain an employee of the particular employer and requires an intention to terminate the employment. *Wills v. Emp’t Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). In addition to a showing of intent, a voluntary leaving of employment also requires an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Here, the evidence shows Whippie did not *initially* intend to end his SFS placement through Team Staffing, but simply needed a brief leave of absence to quarantine. Notably, Whippie should have informed Team Staffing as well as SFS of his need to quarantine. Team Staffing—

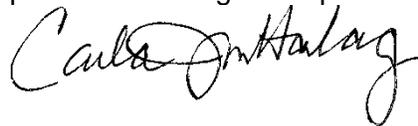
not SFS—was his formal employer. Assuming Team Staffing *had* reached an agreement with Whippie regarding a leave of absence, Iowa law nevertheless provides that a leave of absence negotiated for medical reasons is considered a period of “voluntary unemployment;” the individual is ineligible for standard unemployment benefits during this time period. Iowa Admin Code r. 871-24.22(2).

Notably, the fact SFS was implementing layoffs did not impact any employment relationship between Whippie and *Team Staffing*. The record shows Whippie had worked with Team Staffing and other employment agencies in the past, and knew it was his responsibility to alert the agency of his availability for employment. When Whippie then failed to contact Team Staffing at the end of the quarantine period and let them know he was able and available for a new assignment, he in essence “voluntarily quit” his job.

Although Whippie is not eligible for regular unemployment insurance benefits under state law, he may be eligible for a closed period of federally-funded unemployment benefits during the fourteen-day period he was directed to quarantine by his medical providers. Section 2102 of the Coronavirus Aid, Relief, and Economic Security Act (Cares Act), Public Law 116-136, created a temporary federal program called Pandemic Unemployment Assistance (PUA) that provides *up to 39 weeks* of unemployment compensation. Additional information about PUA is at the end of this decision.

**DECISION:**

The August 14, 2020, (reference 04) unemployment insurance decision is **AFFIRMED**. The claimant sought a medical leave of absence beginning April 7, 2020 and voluntarily quit his position following the expiration of that leave of absence. Benefits are denied.



Carla J. Hamborg  
Administrative Law Judge

October 2, 2020  
Decision Dated and Mailed

CJH/lb

cc: Mike Whippie (by first class mail)  
Team Staffing Solutions Inc (by first class mail)  
Nicole Merrill, IWD (by email)  
Joni Benson, IWD (by email)

*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. 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>.