

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DERRICK D FORD
Claimant

DES STAFFING SERVICES INC
Employer

APPEAL 22A-UI-01281-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/31/21
Claimant: Respondent (2)**

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

STATEMENT OF THE CASE:

On December 13, 2021, DES Staffing Services Inc (employer/appellant) filed an appeal from the December 9, 2021 (reference 03) that found claimant's October 29, 2021 separation from employment was not disqualifying.

A telephone hearing was held on February 4, 2022. The parties were properly notified of the hearing. Employer participated by HR Manager Kathy Anderson. Derrick Ford (claimant/respondent) did not participate.

Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. 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:

Claimant began working for employer in October 2021. Claimant's most recent assignment began on October 11, 2021. The last day claimant worked on the job was October 28, 2021. The assignment ended on November 3, 2021 due to absences. Employer contacted claimant at that time to notify him of the assignment ending. Claimant never contacted employer to request further assignment and there has been no communication between the parties since then.

Employer is a temporary employment firm and has a policy providing that failure to request reassignment within three days of an assignment ending is considered a voluntary quit. Claimant signed for and received a copy of this assignment at the time of hire.

Claimant has not received unemployment insurance benefits since the effective date of the claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the December 9, 2021 (reference 03) that found claimant's October 29, 2021 separation from employment was not disqualifying 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. But the individual shall not be disqualified if the department finds that:

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.

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 voluntarily quit by failing to request further assignment after being notified of the assignment ending. He has not established a good cause reason or doing so. He is therefore disqualified from benefits.

Because claimant is disqualified from benefits and has not received unemployment insurance benefits since the effective date of the claim the other issues noticed need not be addressed.

DECISION:

The December 9, 2021 (reference 03) that found claimant's October 29, 2021 separation from employment was not disqualifying is REVERSED. The separation from employment was disqualifying. Benefits must be denied, and employer's account shall not be charged. This disqualification shall continue until claimant has earned wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is not otherwise disqualified or ineligible.



Andrew B. Duffelmeyer
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February 22, 2022
Decision Dated and Mailed

abd/abd