

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARNELL SHAVERS**

Claimant

**APPEAL NO. 13A-UI-05164-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**

Employer

**OC: 01/06/13**

**Claimant: Respondent (2R)**

Section 96.5-1 – Voluntary Quit  
Section 96.3-7 – Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision of the representative dated April 23, 2013, reference 01, which held that the claimant was eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for June 5, 2013 by telephone conference call. The claimant participated personally. The employer participated by Sarah Fiedler, the human resources generalist. The record consists of the testimony of Charnall Shavers and the testimony of Sarah Fiedler.

As the hearing was being completed, the claimant dropped out of the call. The administrative law judge tried to call the claimant back but voice mail picked up. Since the hearing was virtually complete, no further attempts were made to reach the claimant. The record was closed. The claimant never called the Appeals Bureau.

**ISSUES:**

Whether the claimant voluntarily left for good cause attributable to the employer; and

Whether the claimant has been overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer is a staffing agency. The claimant accepted a temporary assignment to work at the Hon Geneva plant on May 29, 2012. She was a full-time production laborer. The claimant quit this assignment on December 21, 2012. She felt that the work was too strenuous for her. She has personal medical conditions, not caused by work, which made it difficult for her to do the job. She did not inform the employer until January 4, 2013, that she had quit the assignment.

## 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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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). 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. See 871 IAC 24.25.

The claimant is not eligible for unemployment insurance benefits. The evidence is uncontroverted that she quit the job due to personal medical problems. She quit on December 21, 2012, and did not even tell the employer that she quit until January 4, 2013. The claimant did not quit for good cause attributable to the employer but rather for personal reasons. Benefits are denied.

The next issue is overpayment of benefits.

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 overpayment issue is remanded to the Claims Section for determination.

**DECISION:**

The unemployment insurance decision dated April 23, 2013, reference 01, is reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefits amount, provided claimant is otherwise eligible. The overpayment issue is remanded to the Claims Section for determination.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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