

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MONIQUE C EDWARDS
Claimant

APPEAL NO. 13A-UI-13190-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 04/28/13
Claimant: Respondent (2-R)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated November 25, 2013, reference 02, that concluded the claimant completed her temporary work assignment and was eligible for benefits. A telephone hearing was held on January 10, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Sarah Fieldler participated in the hearing on behalf of the employer.

ISSUE:

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant started working for the employer in November 2012. Her last assignment was working full time as a general laborer for Doarn and Ward from October 7 to October 10, 2013. This was on on-going assignment with no definite ending date.

On October 10, 2013, the claimant called the employer to say she was going to be late for work due to childcare issues. She also reported that she would not be able to return to work afterward because of childcare issues and she did not know when she would be able to work again. She was told that she could contact the employer again to see if they had work when she was able to work again.

The claimant called back in on November 12 and said she was available, but when she was contacted by the employer on November 18, she again reported she was not available for work.

The claimant filed for and received a total of \$2,817.41 in unemployment insurance benefits for the weeks between October 13 and December 21, 2013.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant voluntarily quit an ongoing assignment the employer due to childcare problems.

871 IAC 24.25(17) that a voluntarily quit due to lack of childcare is without good cause attributable to the employer. The claimant is disqualified effective October 13, 2013.

The unemployment insurance law generally requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. But a claimant is not required to repay an overpayment when an initial decision to award benefits on an employment-separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$2,817.41 in unemployment insurance benefits for the weeks between October 13 and December 21, 2013.

The issue of whether the claimant is required to repay the overpayment and whether the employer is chargeable for any overpaid benefits is remanded to the Agency since the issue was not listed on the hearing notice. There also appears to be an issue as to whether the claimant failed to report her earnings for the week ending October 12, 2013, which is also remanded.

DECISION:

The unemployment insurance decision dated November 25, 2013, reference 02, is reversed. The claimant is disqualified from receiving unemployment insurance benefits effective October 13, 2013, until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant was overpaid \$2,817.41 in unemployment insurance benefits. The issue of whether the claimant is required to repay the overpayment and whether the employer is chargeable for any overpaid benefits is remanded to the Agency. The issue as to whether the claimant failed to report her earnings for the week ending October 12, 2013, is also remanded.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css