

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NEHAL TAWFIK**  
Claimant

**APPEAL NO. 20A-UI-09487-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REMEDY INTELLIGENT STAFFING INC**  
Employer

**OC: 04/19/20**  
**Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant Nehal Tawfik filed a timely appeal from the August 5, 2020, reference 01, decision that disqualified her for benefits, and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Tawfik voluntarily quit on April 19, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on September 24, 2020. Ms. Tawfik participated. John "JT" Breslin represented the employer. Exhibit 1 was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX, and WAGE-A.

**ISSUE:**

Whether the claimant's voluntary quit was for good cause attributable to the employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Remedy Intelligent Staffing, Inc. (Remedy) is a temporary employment agency. The claimant established her employment with Remedy in 2015 and worked in a series of part-time temporary work assignments at General Mills in Cedar Rapids. Remedy is the most recent employer and the sole base period employer. The most recent assignment began in February 2020 and ended on April 19, 2020, when the claimant voluntarily quit out of concern for COVID-19. Remedy and General Mills continued to have work for the claimant in the assignment at the time the claimant notified her General Mills supervisor that she would be returning to perform additional work for the foreseeable future. A year ago the claimant was diagnosed with thalassemia, an inherited blood disorder. The claimant also suffers from anemia. The claimant did not consult with a doctor when making the decision to leave the employment and a doctor did not advise the claimant to leave the employment. At the time the claimant left the employment, General Mills had already taken multiple steps to prevent the spread of COVID-19. These included having workers wear masks, social distancing, and making hand sanitizer available. Despite these safeguards, the claimant decided it was unsafe to remain in the workplace. The claimant is a full-time college student. Since the claimant left the employment she has self-quarantined at home and has not attempted to return to the employment or sought other employment.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)(d) 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:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Administrative Code rule 817-24.26(6) provides as follows:

Separation because of illness, injury, or pregnancy.

a. Nonemployment related separation. The claimant left because of illness, injury or pregnancy upon the advice of a licensed and practicing physician. Upon recovery, when recovery was certified by a licensed and practicing physician, the claimant returned and offered to perform services to the employer, but no suitable, comparable work was available. Recovery is defined as the ability of the claimant to perform all of the duties of the previous employment.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Iowa Admin. Code r. 871-24.26(2) provides:

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:

(2) The claimant left due to unsafe working conditions.

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 evidence in the record established an April 19, 2020 voluntary quit without good cause attributable to the employer. The claimant has non-work related health issues that warrant prudence in the context of the COVID-19 pandemic. However, the evidence does not establish either that the workplace was unsafe or that it was medically necessary for the claimant to leave the employment. The claimant's decision to leave was not based on advice from a physician. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.

**DECISION:**

The August 5, 2020, reference 01, decision is affirmed. The claimant voluntarily quit the employment on April 19, 2020 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged for benefits.



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James E. Timberland  
Administrative Law Judge

September 28, 2020  
Decision Dated and Mailed

jet/scn

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you have received.**