

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANDREA GARDINER
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL 22A-UI-03043-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 5/30/21
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin Code r. 871-24.23(26) – VQ – Employee of Temporary Employment Firm

STATEMENT OF THE CASE:

Claimant filed an appeal from the January 7, 2022 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on February 28, 2022, at 8:00 a.m. Claimant participated. Employer participated through Vicki Mathias. No exhibits were admitted into the record.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's current assignment is full-time with Rider. Claimant's immediate supervisor was Dawn Starr. Claimant began her employment on October 6, 2021. Claimant remains employed with Remedy Intelligent Staffing Inc. November 2, 2021, claimant quit her assignment at General Mills due to it being 3rd shift. Claimant quit because she preferred to work first shift. Claimant did not notify the employer of her quitting the assignment with General Mills within three working days. On November 18, 2021, claimant was assigned to work at Ryder. Claimant remains working at the Ryder assignment at the date of hearing.

Employer has a policy that requires employees to request a new assignment within three working days of completing an assignment. The policy is in writing and is a document separate from the employee handbook. The policy states that failure to request a new assignment within three days will be considered quitting employment and may result in disqualification for unemployment benefits. Claimant signed the policy and received a copy of the policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied.

Iowa Code section 96.5(1)(j) provides:

An individual shall be disqualified for benefits

1. 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.

Iowa Admin. Code r. 871-24.26(15) 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:

Employee of temporary employment firm.

a. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm within three days of completion of an employment assignment and seeks reassignment under the contract of hire. The employee must be advised by the employer of the notification requirement in writing and receive a copy.

b. The individual shall be eligible for benefits under this subrule if the individual had good cause for not contacting the employer within three days and did notify the employer at the first reasonable opportunity.

c. Good cause is a substantial and justifiable reason, excuse or cause such that a reasonable and prudent person, who desired to remain in the ranks of the employed, would find to be adequate justification for not notifying the employer. Good cause would

include the employer's going out of business; blinding snow storm; telephone lines down; employer closed for vacation; hospitalization of the claimant; and other substantial reasons.

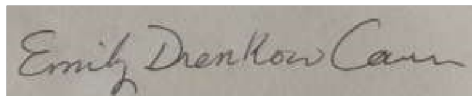
d. Notification may be accomplished by going to the employer's place of business, telephoning the employer, faxing the employer or any other currently accepted means of communications. Working days means the normal days in which the employer is open for business.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.* I find the employer's testimony more credible than the claimant.

In this case, claimant quit her assignment with General Mills on November 2, 2021. Claimant did not request a new assignment from employer within three working days. Claimant was advised of the requirement to request a new assignment. Claimant signed a copy of the policy. Because claimant did not request a new assignment within three working days, claimant is considered to have voluntarily quit her employment with Remedy Intelligent Staffing Inc without good cause attributable to employer. According, claimant is not eligible for benefits.

DECISION:

The January 7, 2022 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit her employment without good cause attributable to employer. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Emily Drenkow Carr
Administrative Law Judge
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March 15, 2022
Decision Dated and Mailed

ed/kmj