

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARICRUZ MEYER

Claimant

TEAM STAFFING SOLUTIONS INC

Employer

APPEAL 20R-UI-12010-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/26/20

Claimant: Appellant (1/R)

Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.5-1-j – Separation from Temporary Employer

STATEMENT OF THE CASE:

Maricruz Meyer (claimant) appealed a representative's July 9, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the Team Staffing Solutions (employer). Administrative Law Judge Palmer issued a decision on August 31, 2020, affirming the representative's decision. The Employment Appeal Board issued a decision of remand on September 28, 2020. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 23, 2020. The claimant participated personally. The employer participated by Sarah Fiedler, Risk Manager. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The employer is a temporary employment service. The claimant performed services from April 30, 2018, through November 21, 2019, at Winegard as an assembler. The claimant was expecting a baby and on November 19, 2020, she went to the hospital with complications. She was hospitalized until her daughter was born on December 6, 2019. The baby was hospitalized until January 11, 2020. The claimant was on Family Medical Leave (FMLA) during this time.

The baby was premature and fragile. The claimant stayed with the child during the early months. On January 27, 2020, the claimant sent the employer notice of resignation so she could care for her child. Continued work was available for the claimant had she not quit. By February 1, 2020, the claimant was able to send her daughter to daycare but she chose to keep her at home.

On September 8, 2020, the claimant returned to work with the employer and was assigned to work at Winegard as a full-time assembler.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1)c 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:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

Iowa Admin. Code r. 871-24.26(8) provides:

This separation is not considered to be a voluntary quit.

(8) The claimant left for the necessary and sole purpose of taking care of a member of the claimant's immediate family who was ill or injured, and after that member of the claimant's family was sufficiently recovered, the claimant immediately returned and offered to perform services to the employer, but no work was available. Immediate family is defined as a collective body of persons who live under one roof and under one head or management, or a son or daughter, stepson, stepdaughter, father, mother, father-in-law, mother-in-law. Members of the immediate family must be related by blood or marriage.

The claimant left work on January 27, 2020, to take care of her daughter who was born early. The claimant's daughter sufficiently recovered on February 1, 2020. The claimant did not return to and offer services to the employer until September 8, 2020. The claimant has failed to meet the requirements of the statute. Therefore, she is not eligible to receive unemployment insurance benefits from January 26, 2020, through September 5, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.


The issue of whether the claimant was able and available for work from November 19, 2019 through January 25, 2020, is remanded for determination.

DECISION:

The representative's July 9, 2020 decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

The issue of whether the claimant was able and available for work from November 19, 2019 through January 25, 2020, is remanded for determination.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge

December 4, 2020
Decision Dated and Mailed

bas/scn