

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**HOWARD E NELSON**  
Claimant

**RANDSTAD US LLC**  
Employer

**APPEAL 21A-UI-24086-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/05/21  
Claimant: Respondent (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

On October 29, 2021, Randstad US, LLC (employer/appellant) filed an appeal from the October 19, 2021 (reference 03) unemployment insurance decision that allowed benefits based on a finding that claimant was discharged without a showing of misconduct.

A telephone hearing was held on December 21, 2021. The parties were properly notified of the hearing. Employer participated by Staffing Manager Karen Durbin. Howard Nelson (claimant/respondent) did not call in to participate in the hearing.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?
- II. Was the claimant overpaid benefits? Should claimant repay benefits and/or charge employer due to employer participation in fact finding?
- III. Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant worked for employer as a temporary employee beginning on August 2, 2021. Claimant resigned on November 4, 2021. He reported he was resigning because he found another job. There is no evidence in the record to establish claimant accepted work elsewhere prior to resigning and subsequently performed work in that job. Claimant has not received benefits since the effective date of the claim, September 5, 2021.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons set forth below, the October 19, 2021 (reference 03) unemployment insurance decision that allowed benefits based on a finding that claimant was discharged without a showing of misconduct is REVERSED.

- I. Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

Iowa Code section 96.5(1) 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:

- a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The employer has the burden of proving that a claimant's departure from employment was voluntary. *Irving v. Emp't Appeal Bd.*, 883 N.W.2d 179 (Iowa 2016). "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". *Id.* (citing *Cook v. Iowa Dept. of Job Service*, 299 N.W.2d 698, 701 (Iowa 1980)).

"Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. *Uniweld Products v. Industrial Relations Commission*, 277 S.2d 827 (Florida App. 1973). While a notice of intent to quit is not required to obtain unemployment benefits where the claimant quits due to intolerable or detrimental working conditions, the case for good cause is stronger where the employee complains, asks for correction or accommodation, and employer fails to respond. *Hy-Vee Inc. v. EAB*, 710 N.W.2d 1 (Iowa 2005).

Iowa unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code §§ 96.5(1) and 96.5(2)a. A voluntary quitting of employment requires that an employee exercise a voluntary choice between remaining employed or terminating the employment relationship. *Wills v. Emp't Appeal Bd.*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

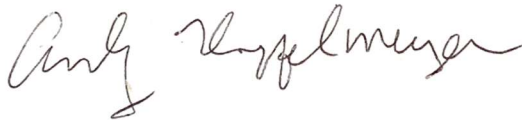
Employer has carried its burden of proving claimant's departure from employment was voluntary. However, claimant has not carried his burden of proving the voluntary leaving was for good cause attributable to employer.

Claimant reported he was resigning because he found another job. However, there is no evidence in the record to establish claimant accepted work elsewhere prior to resigning and subsequently performed work in that job. Claimant has not otherwise established the resignation was for good cause attributable to employer. Benefits must therefore be denied.

Claimant has not received benefits since the effective date of the claim, September 5, 2021. As such, the issue of whether claimant was overpaid benefits need not be addressed.

**DECISION:**

The October 19, 2021 (reference 03) unemployment insurance decision that allowed benefits based on a finding that claimant was discharged without a showing of misconduct is REVERSED. The separation from employment was disqualifying. Benefits are denied from the date of separation and continuing until claimant earns wages for insured work equal to ten times his weekly benefit amount, provided he is not otherwise disqualified or ineligible at that time.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

December 28, 2021  
Decision Dated and Mailed

abd/abd

**Note to Claimant:**

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.