

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RACHEL J GUSTAFSON
Claimant

APPEAL 17A-UI-00699-JP-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMPRO SERVICES INC
Employer

**OC: 12/11/16
Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.26(19) – Voluntary Quitting – Spot Jobs/Casual Labor
Iowa Admin. Code r. 871-24.26(22) – Voluntary Quitting – Specific Period of Time
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment
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:

The employer filed an appeal from the January 11, 2017, (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 10, 2017. Claimant participated. Employer participated through Unemployment Benefits Administrator Colleen McGuinty and Crystal Pancrazio. Employer Exhibit 1 was offered into evidence. Claimant objected that the exhibit was irrelevant because of the date it was signed. Claimant's objection was overruled and the Employer Exhibit 1 was admitted into evidence. Official notice was taken of the administrative record of claimant's wage history, with no objection.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer is a staffing agency. Claimant signed the employer's three day notice requirement policy on July 9, 2013, which was the only three day notice policy claimant signed for the employer. Claimant initially began a temporary assignment through the employer on June 2, 2014 and that assignment ended on March 11, 2016. Approximately two weeks before the assignment ended, claimant provided the employer a two week resignation notice because she

was going to accept a full-time job with HOYT MARINE LLC. Claimant started full-time with HOYT MARINE LLC in March 2016.

Claimant returned to the employer to work a two day contract assignment with Alcoa on November 9 and 10, 2016. Claimant worked approximately eight hours on this assignment. Claimant and the employer were both aware that this was a two day assignment only. Claimant was still employed with HOYT MARINE LLC during this time. After November 10, 2016, she returned to work full-time with HOYT MARINE LLC until she was placed on a seasonal layoff on December 13, 2016. Claimant is expected to be recalled from her layoff between March 1, 2017 and March 15, 2017.

During the assignment on November 9 and 10, 2016, claimant told Ms. Pancrazio if the employer has an assignment that is better than her employment at HOYT MARINE LLC then she would consider it. The employer was aware claimant was returning to her full-time employment with HOYT MARINE LLC after her assignment ended. Claimant sent Ms. Pancrazio a text message thanking her for the assignment around November 10, 2016. On January 19, 2017, claimant spoke to the employer and stated she was available for work. The employer did not have anything available at that time. The employer told claimant to call in every week. Claimant called on January 28, 2017 and February 6, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was not the result of a disqualifying reason.

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

Iowa Admin. Code r. 871-24.26(19) 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:

(19) The claimant was employed on a temporary basis for assignment to spot jobs or casual labor work and fulfilled the contract of hire when each of the jobs was completed. An election not to report for a new assignment to work shall not be construed as a voluntary leaving of employment. The issue of a refusal of an offer of suitable work shall be adjudicated when an offer of work is made by the former employer. The provisions of Iowa Code section 96.5(3) and rule 24.24(96) are controlling in the determination of suitability of work. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employee shall be considered to have voluntarily quit employment.

Iowa Admin. Code r. 871-24.26(22) 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:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

Prior to November 9, 2016, claimant was working full-time for HOYT MARINE LLC. Claimant was employed by the employer on assignment at Alcoa for a specific period of time, November 9 and 10, 2016. After the assignment ended, claimant returned to her normal full-time employment with HOYT MARINE LLC. Inasmuch as claimant completed the contract or terms of hire of the assignment with the employer as contemplated, no disqualification is imposed. Benefits are allowed.

DECISION:

The January 11, 2017, (reference 01), unemployment insurance decision is affirmed. Claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided claimant is otherwise eligible.

Jeremy Peterson
Administrative Law Judge

Decision Dated and Mailed

jp/rvs