

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KEVIN L SQUIRES
1236 – 3RD AVE SE #5
CEDAR RAPIDS IA 52403

REMEDY INTELLIGENT STAFFING INC
C/o FRICK UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166-6864

AMENDED

Appeal Number: 04A-UI-03156-DWT
OC 02/01/04 R 03
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Remedy Intelligent Staffing, Inc. (employer) appealed a representative's March 9, 2004 decision (reference 04) that concluded Kevin L. Squires (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the reasons for the claimant's separation did not disqualify him from receiving benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 12, 2004. The claimant participated in the hearing. Kim Ordaz, a staffing consultant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant has worked for the employer since 1997. The employer assigned the claimant to work at General Mills and he was working there in early July 2003. On July 2, 2003, the claimant and a General Mills supervisor became engaged in a confrontation. The General Mills supervisor told the claimant he had to leave the premises and could not return. The claimant immediately reported the incident to the employer.

The employer made arrangements for the claimant to work on a different shift at General Mills. On July 11, 2003, Ordaz spoke to the claimant when he was in the office and offered him a job at General Mills on a different shift. The job was to begin on July 28, 2003. The claimant accepted the job and the employer expected him to return to work at General Mills on July 28, 2003.

The claimant did not report to General Mills on July 28, 2003. The claimant did not notify the employer that he was unable to work on July 28. When the employer tried calling the claimant on July 28, his phone was disconnected.

After July 28, the claimant has, at various times, left messages on the employer's answering machine that he was looking for work. The employer, however, has not had the opportunity to personally talk to the claimant any time after July 28, 2003.

The claimant did not file a claim for benefits until the week of February 1, 2004. He filed claims for the weeks ending February 7 through April 10, 2004. He received his maximum weekly benefit amount of \$82.00 each week he filed a claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant denied the employer offered him a job at General Mills that was to start on July 28, 2003. Ordaz, however, personally recalled talking to the claimant on July 11 and offering him a job on July 28, which the claimant accepted. The claimant may not remember accepting a job that was to start on July 28, but Ordaz's testimony is credible. She does not have the motive the claimant has in this case to fabricate the claimant's acceptance of the July 28 work. Ordaz's testimony is more credible than the claimant's testimony so the findings of fact reflect her testimony. Since the claimant accepted work on July 28, when he did not report to work, he voluntarily quit. When a claimant voluntarily quits employment, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6.2

The claimant may have had personal reasons for quitting. The evidence does not, however, establish that he quit for reasons that qualify him to receive unemployment insurance benefits.

Therefore, as of February 1, 2004, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending February 7 through April 10, 2004. He has been overpaid a total of \$820.00 in benefits he received for these weeks.

DECISION:

The representative's March 9, 2004 decision (reference 04) is reversed. The claimant voluntarily quit his employment on July 28, 2003, for reasons that do not qualify him to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 1, 2004. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits during the weeks ending February 7 through April 10, 2004. The claimant has been overpaid \$820.00 in benefits.

dlw/b/b