

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

DEAN M SCHULTE
1125 'C' AVE NW
CEDAR RAPIDS IA 5 2405

REMEDY INTELLIGENT STAFFING INC
c/o TALX UC EXPRESS
P O BOX 66864
ST LOUIS MO 63166-6864

Appeal Number: 04O-UI-06583-HT
OC: 02/22/04 R: 03
Claimant: Respondent (1)

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 is 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 – Quit

STATEMENT OF THE CASE:

The employer, Remedy Intelligent Staffing, Inc. (Remedy), filed an appeal from a decision dated March 19, 2004, reference 01. The decision allowed benefits to the claimant, Dean Schulte. After due notice was issued a hearing was held by telephone conference call on July 12, 2004. The claimant participated on his own behalf. The employer participated by Staffing Consultant Kim Ordaz.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Dean Schulte began working for Remedy on July 21,

2003. He was assigned to General Mills on a long-term assignment. General Mills shut down on December 19, 2003, for a period of two weeks. The temporary workers were told they would be contacted when the plant operations resumed in January 2004.

On or about December 30, 2003, the claimant spoke with Staffing Consultant Kim Ordaz. There was apparently some miscommunication as Ms. Ordaz believes the claimant told her he was no longer available for work due to a non-work-related back injury, and he believes he only mentioned a sore back from shoveling snow. The employer did not recall him to General Mills because Mr. Schulte did not provide a statement from his doctor that he had been released to return to work without restrictions. The claimant appears to have been unaware he was expected to provide any statement.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is not.

Iowa Code Section 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.

The record establishes the claimant was expecting to be called back to work after the General Mills holiday shutdown. The employer did not recall him because he had not provided a statement from his doctor releasing him to return to work. However, the record does not establish the claimant was instructed to provide the doctor's statement. Mr. Schulte has denied having any back injury, merely a sore back from shoveling snow. He does not appear to have been aware Remedy was expecting a doctor's release and he anticipated returning to work after the shutdown. As there was no voluntary quit, and no discharge, the administrative law judge must conclude the claimant remains on layoff for lack of work. Disqualification may not be imposed.

DECISION:

The representative's decision of March 19, 2004, reference 01, is affirmed. Dean Schulte is qualified for benefits provided he is otherwise eligible.

bgh/s