

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**RIKKI L DAEHLER**  
Claimant

**L A LEASING INC  
SEDONA STAFFING**  
Employer

**APPEAL NO. 10A-UI-03482-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/31/10  
Claimant: Respondent (2-R)**

Section 96.5-1-j – Voluntary Quit/Failure to Seek Re-Assignment  
Section 96.3 – 7 – Recovery of Overpayment

**STATEMENT OF THE CASE:**

The employer appealed from a representative's decision dated February 23, 2010, reference 01, that held it failed to establish misconduct in claimant's discharge on February 3, 2010, and benefits are allowed. A telephone hearing was held on April 22, 2010. The claimant did not participate. Colleen McGuinty, Representative, participated for the employer.

**ISSUES:**

Whether claimant voluntarily quit with good cause attributable to the employer.

Whether the claimant is overpaid benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered the evidence in the record, finds that: The claimant began work on December 3, 2009. The employer provided the claimant with an availability statement that requires him to contact the employer within three working days of finishing a job assignment. The claimant began a full-time labor position assignment at Plastic Products on February 1, 2010. Plastic Products requested the claimant removed from the assignment, and the employer complied. The claimant failed to contact the employer within three working days for re-assignment. The claimant did not respond to the hearing notice. The claimant has received benefits on this claim.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1-j 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, but the individual shall not be disqualified if the department finds that:

j. The individual is a temporary employee of a temporary employment firm who notifies the temporary employment firm of completion of an employment assignment and who seeks reassignment. Failure of the individual to notify the temporary employment firm of completion of an employment assignment within three working days of the completion of each employment assignment under a contract of hire shall be deemed a voluntary quit unless the individual was not advised in writing of the duty to notify the temporary employment firm upon completion of an employment assignment or the individual had good cause for not contacting the temporary employment firm within three working days and notified the firm at the first reasonable opportunity thereafter.

To show that the employee was advised in writing of the notification requirement of this paragraph, the temporary employment firm shall advise the temporary employee by requiring the temporary employee, at the time of employment with the temporary employment firm, to read and sign a document that provides a clear and concise explanation of the notification requirement and the consequences of a failure to notify. The document shall be separate from any contract of employment and a copy of the signed document shall be provided to the temporary employee.

For the purposes of this paragraph:

(1) "Temporary employee" means an individual who is employed by a temporary employment firm to provide services to clients to supplement their work force during absences, seasonal workloads, temporary skill or labor market shortages, and for special assignments and projects.

(2) "Temporary employment firm" means a person engaged in the business of employing temporary employees.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer on February 3, 2010 when he failed to seek re-assignment within three days from when his assignment ended.

The employer discontinued claimant's assignment, but did not discharge him from employment. The claimant failed to timely seek re-assignment within three working days pursuant to a policy he received that is considered a quit without good cause.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Since the claimant has received benefits on his claim, the overpayment issue is remanded to claims for a determination.

**DECISION:**

The department decision dated February 23, 2010, reference 01, is reversed. The claimant voluntarily quit without good cause on February 3, 2010. Benefits are denied until the claimant

requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible. The overpayment of benefit issue is remanded.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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