

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRI P STEINKE
Claimant

APPEAL NO. 10A-EUCU-01129-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADECCO USA INC
Employer

OC: 04/05/09
Claimant: Respondent (2R)

Section 96.5-1-j – Voluntary Quit from Temporary Employment

STATEMENT OF THE CASE:

ADECCO USA, Inc. filed a timely appeal from an unemployment insurance decision dated November 17, 2010, reference 02, that allowed benefits to Terri P. Steinke. After due notice was issued, a telephone hearing was held January 17, 2011 with Ms. Steinke participating and presenting additional testimony by Andrea Eggleston. Certified Staffing Consultant Marsha Heck participated for the employer. Employer Exhibit One was admitted into evidence. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

Did the claimant leave work with good cause attributable to the employer?

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: Terri P. Steinke was employed by ADECCO USA, Inc. working on assignment at Meredith Corporation from January 13, 2010 through February 4, 2010. On January 6, 2010, Ms. Steinke signed and received a copy of a mandatory contact notice advising her that she must contact ADECCO within three working days after the end of each assignment. Ms. Steinke did not contact ADECCO within three working days after February 4, 2010. Ms. Steinke has received unemployment insurance benefits since the end of this assignment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant's separation from employment with ADECCO USA was a disqualifying event. For the reasons that follow, the administrative law judge concludes that it was.

Iowa Code § 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 evidence in this record persuades the administrative law judge that when Ms. Steinke was hired to work on assignment for ADECCO's clients, she signed a mandatory contact notice and was given a copy of it. The notice, Exhibit One, told Ms. Steinke that she must contact ADECCO within three working days after the end of each assignment. The evidence persuades the administrative law judge that Ms. Steinke did not contact ADECCO within the time limits set by statute. Under these circumstances, the separation must be treated as a quit without good cause attributable to the employer.

Iowa Code § 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.

The question of whether the claimant must repay the benefits she has received is remanded to the Unemployment Insurance Services Division. The administrative law judge also notes that during July and August 2010 Ms. Steinke reported earnings when filing her weekly claims for unemployment insurance benefits. These wages are not reflected in agency wage records.

DECISION:

The unemployment insurance decision dated November 17, 2010, reference 02, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The question of repayment of benefits and the possible re-qualification for benefits is remanded to the Unemployment Insurance Services Division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs