

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

CHRISTY LARSON
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MANPOWER INTERNATIONAL INC
MANPOWER TEMPORARY SERVICES
C/o FRICK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-05220-BT
OC: 04/16/06 R: 01
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 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 - Voluntary Quit
Section 96.3-7 - Overpayment

STATEMENT OF THE CASE:

Manpower Temporary Services (employer) appealed an unemployment insurance decision dated May 11, 2006, reference 01, which held that Christy Larson (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 1, 2006. The claimant participated in the hearing. The employer participated through Todd Ashenfelter, Staffing Specialist.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 24, 2005, and was assigned to Eaton as a full-time machinist. Her last day of work was approximately December 15, 2005, because Eaton shuts down over the holidays. The claimant had heard at some point in the latter part of December 2005 that she would not be returning because Eaton did not have enough work for the Manpower employees. The claimant moved on January 1, 2006, because she could not afford to continue living where she had been living. She spoke to the employer on January 3, 2006, but no work was available on that date. After the claimant moved, she did not have a telephone but messages could be left for her at her parent's telephone number.

The employer tried to offer work to the claimant and left telephone messages for her on January 10, 2006 and February 8, 9, 10, 11, 2006. The claimant did not return any of these calls but the employer was able to reach her on February 13, 2006. The employer offered work to the claimant but she said she was looking at work with another employer. The claimant never called the employer again and the employer tried one additional time to reach the claimant on May 15, 2006, but could not contact her.

The claimant filed a claim for unemployment insurance benefits effective May 11, 2006, and has received benefits after the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer or if the employer discharged her for work-connected misconduct. Iowa Code sections 96.5-1 and 96.5-2-a.

After the claimant's assignment ended, she moved to a different city. She requested work from the employer on January 3 but none was available and she refused an offer of employment on February 12, 2006. Other than those contacts, the claimant never called the employer and the employer was only able to leave messages for the claimant at her parent's telephone number. In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out by failing to maintain contact with the employer. Even though the claimant moved to a different city, the employer had work available for her had she called.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. There has been no evidence presented that establishes she quit her employment with good cause attributable to the employer. The claimant has not satisfied her burden and benefits are denied.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. 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.

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.

Because the claimant's separation was disqualifying, benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law.

DECISION:

The unemployment insurance decision dated May 11, 2006, reference 01, is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she 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 claimant is overpaid benefits in the amount of \$1,575.00.

sdb/kkf