

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COLE W GUTSCHENRITTER
Claimant

APPEAL NO. 14A-UI-01822-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 01/05/14
Claimant: Respondent (2)

Section 96.5-1 - Voluntary Quit
Section 96.3-7 - Overpayment of Benefit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 14, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on March 5, 2014. The parties were properly notified about the hearing. The claimant was not available at the number he provided for the hearing and failed to participate in the hearing. Michael Payne participated in the hearing on behalf of the employer with a witness, Kristina Adamson.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Was the claimant overpaid unemployment insurance benefits and is the claimant required to repay the overpayment?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time as a general laborer at Cardinal Glass Industries from April 15, 2013, and December 20, 2013.

When the claimant was hired, he was given a statement to read and sign that said he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant completed his assignment with Cardinal Glass but failed to contact the employer afterward to seek another assignment.

The claimant filed for and received a total of \$1,148.00 in unemployment insurance benefits for the weeks between January 5 and February 1, 2014. The employer participated in the fact-finding interview in this case.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant voluntarily quit employment without good cause attributable to the employer by failing to contact the employer after completing his work assignment. He had been notified of this requirement when he was hired.

The unemployment insurance law generally requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. But a claimant is not required to repay an overpayment when an initial decision to award benefits on an employment-separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3-7-a, -b.

The claimant received benefits but has been denied benefits as a result of this decision. The claimant, therefore, was overpaid \$1,148.00 in benefits.

Because the employer participated in the finding interview, the claimant is required to repay the overpayment and the employer's account will not be charged for benefits.

DECISION:

The unemployment insurance decision dated February 14, 2014, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant was overpaid \$1,148.00 in benefits, which he is required to repay.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css