

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIE A BENNETT
Claimant

APPEAL NO: 08A-UI-00161-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 11/25/07 R: 03
Claimant: Respondent (2)

Section 96.5-1 – Voluntary Quit
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Advance Services, Inc. (employer) appealed a representative's December 24, 2007 decision (reference 01) that concluded Valerie A. Bennett (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 22, 2008. The claimant was briefly present for the hearing. Stephanie Kopish, the human resource coordinator, appeared on the employer's behalf.

When the claimant was contacted, she indicated she was available for only three minutes because she was at a public phone. The claimant had not made any arrangements to use a phone for the scheduled hearing. Before any testimony was presented, the claimant excused herself from the hearing and hung up her phone. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The employer is a staffing service. The claimant signed up to work for the employer on June 20, 2007. The employer gave the claimant a job assignment on June 25, 2007. The claimant worked as scheduled at this same job assignment until October 19, 2007. The claimant was scheduled to return to this assignment on October 22. The claimant did not call or report to work after October 19, 2007. The claimant did not complete this work assignment because this client had continuing work for the claimant to do.

On November 26, the claimant called the employer and asked if she could have her job back. The employer did not respond to the claimant's request.

The claimant established a claim for unemployment insurance benefits during the week of November 25, 2007. She filed claims for the weeks ending December 1, 2007, through January 12, 2008. She received her maximum weekly benefits amount of \$64.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her employment when she failed to return to work after October 19, 2007. The claimant did not have any contact with the employer for almost a month and then she asked if she could have her job back. The claimant's actions and verbal comments establish that she voluntarily quit her employment on October 22, 2007.

When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code section 96.6-2. The law presumes a claimant voluntarily quits employment for reasons that do not qualify her to receive benefits when she leaves for compelling personal reasons, but she is absent more than ten working days. 871 IAC 24.25(20). The claimant quit her employment as of October 22. It is not known why she did not return to work or contact the employer for over a month. The claimant quit for reasons that do not qualify her to receive unemployment insurance benefits. As of November 25, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending December 1, 2007, through January 12, 2008. The claimant has been overpaid \$448.00 in benefits she received for these weeks.

DECISION:

The representative's December 24, 2007 decision (reference 01) is reversed. The employer did not discharge the claimant. Instead, the claimant voluntarily quit her employment. The claimant did not establish that she quit for reasons that qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 25, 2007. This

disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant has been overpaid and must repay a total of \$448.00 in benefits she received for the weeks ending December 1, 2007, through January 12, 2008.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs